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Washington, Thursday, September 5, 1940

The President

EXECUTIVE ORDER

AMENDING EXECUTIVE ORDER NO. 7908 OF JUNE 9, 1938, TRANSFERRING CERTAIN LANDS TO THE SECRETARY OF AGRICULTURE FOR USE, ADMINISTRATION, AND DISPOSITION UNDER TITLE III OF THE BANKHEAD-JONES FARM TENANT ACT

By virtue of the authority vested in me by section 45 of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522), I hereby amend the two provisos contained in Executive Order No. 7908¹ of June 9, 1938, transferring certain lands to the Secretary of Agriculture for use, administration, and disposition under Title III of the Bankhead-Jones Farm Tenant Act, to read as follows:

"Provided, That no lands heretofore or hereafter set apart and reserved from the public domain for use, administration, and disposition in accordance with the provisions of Title III of the said Bankhead-Jones Farm Tenant Act and the related provisions of Title IV thereof, shall be disposed of by sale, exchange, or grant, in accordance with the provisions of said act, without the approval of the Secretary of the Interior, and no transfer of title to such lands shall be complete unless evidenced by patent issued by the General Land Office;

"And provided further, That this order shall not apply to any of the said lands which have been, by Executive order or proclamation, included in or reserved as a part of a national forest or of a wildlife, waterfowl, migratory bird, or research refuge, and that this order, or any order which may hereafter set apart and reserve lands from the public domain for use, administration, and disposition in accordance with the provisions of Title III of the said Bankhead-Jones Farm Tenant Act and the related provisions of Title IV thereof, shall not apply to the right, title, and interest of the United

States in the mineral resources of the lands which have been, or may hereafter be, set apart and reserved from the public domain, and shall not restrict the disposition of such mineral resources under the public-land laws."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 31st, 1940.
[No. 8531]

[F. R. Doc. 40-3685; Filed, September 3, 1940; 3:50 p. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT CHAPTER II—COMMODITY CREDIT CORPORATION

PART 212—1940 WHEAT LOANS

[1940 C.C.C. Wheat Form 1—Instructions]

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§ 212.1 Definitions. For the purpose of these instructions and the notes and loan agreements or mortgages relating thereto, the following terms shall be construed, respectively, to mean:

(a) *Eligible producer.* Any person, partnership, association, or corporation

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¹ 3 F.R. 1389.



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producing wheat as landowner, landlord, or tenant upon whose farm the acreage classified as 1940 wheat acreage under the 1940 Agricultural Conservation Program does not exceed the 1940 wheat acreage allotment established for the farm under such program. If a farm was designated as a nonwheat allotment farm under said Program, the wheat produced on the farm will not be eligible collateral for a wheat loan.

(b) *Eligible wheat.* (i) Wheat of acceptable quality as defined below, which was produced in 1940, the beneficial interest to which is and always has been in the eligible producer, or (ii) wheat of acceptable quality as defined below, which was received by an eligible producer as indemnity for a loss paid by the Federal

Crop Insurance Corporation and wheat of acceptable quality as defined below, which was purchased by an eligible producer receiving a cash indemnity from the Federal Crop Insurance Corporation; however, the total number of bushels thus declared eligible shall not be in excess of the number of bushels approved by the Federal Crop Insurance Corporation as the amount of loss subject to indemnification:

(1) Wheat of any class grading No. 3 or better, or wheat grading No. 4 or 5 solely on the factor of test weight but otherwise grading No. 3 or better (warehouse stored wheat grading less than No. 3 to be acceptable, the inspection certificate where required by Commodity Credit Corporation or otherwise the warehouse receipt must contain a statement substantially as follows: "This wheat grades No. ----- solely on account test weight"), provided that wheat of the classes hard red spring or durum shall contain not more than 14½ percent moisture, and wheat of other classes shall contain not more than 14 percent moisture. Wheat of the classes hard red winter, soft red winter, white, and mixed wheat of the above classes containing not more than 14½ percent moisture, grading tough, if otherwise meeting the requirements of Commodity Credit Corporation, and in good sound condition will be eligible for a loan at a rate of two cents (2¢) per bushel less than the rate for such wheat testing 14 percent or less in moisture content, when stored on the farm in all counties in the State of Michigan, and in all counties in the State of Indiana and Ohio, north of or intersected by the fortieth parallel meridian.

Wheat otherwise eligible except by reason of grading tough or because of carrying notation as to weevil or other insects injurious to stored grain may be processed at the producer's expense and such wheat will thereafter be considered eligible for loan purposes when the original warehouse receipt in addition to other original documents, as set forth in C.C.C. Wheat Form 1, are accompanied by a certificate of the approved warehouseman issuing said receipts as follows:

"The wheat represented by attached warehouse receipt No. -----, dated -----, covering loan wheat has been processed at the request of the eligible producer and redelivery will be made of the same country run quality, quantity, grade, and protein as shown on the said warehouse receipt and accompanying original inbound inspection, weight, and other required documents free of "tough" and "weevily" notation. Lien for processing charges will not be claimed by warehousemen from Commodity Credit Corporation or any subsequent holder of said warehouse receipt.

(Address) _____ (Warehouseman) _____
This provision will apply only to wheat containing up to a limit of 15½ percent

moisture in States west of the Mississippi River and 17 percent moisture in States east of the Mississippi River.

(2) Wheat of the class mixed wheat, consisting only of mixtures of those eligible grades of wheat on which loan values are established: *Provided*, Such mixtures are the natural product of the field.

(c) *Eligible storage* shall include public grain warehouses and farm storage meeting the following respective requirements:

(1) Public grain warehouses must meet the requirements of Commodity Credit Corporation, and must have executed warehouse agreements approved by Commodity Credit Corporation. Such warehouses may be situated either at terminal or country points.

(2) Farm storage shall consist of farm bins and granaries which are of such substantial and permanent construction as to afford safe storage of the wheat for a period of 2 years and permit effective fumigation for the destruction of insects and afford protection against rodents, other animals, thieves, and weather, as determined by the county agricultural conservation committees.

(d) *Lending agency.* Any bank, cooperative marketing association, or other corporation, partnership, or person making loans in accordance with these instructions, which has executed the Contract to Purchase on 1940 C.C.C. Form E.

(e) *Eligible paper.* For the purpose of the Contract to Purchase (1940 C.C.C. Form E), eligible paper shall consist of notes of producers, secured by chattel mortgages or warehouse receipts representing wheat dated on or subsequent to June 1, 1940, and prior to January 1, 1941, and executed in accordance with these instructions with State documentary revenue stamps affixed thereto where required by law. Notes executed by an administrator, executor, or trustee will be acceptable only where valid in law.

§ 212.2 *Areas in which loans will be made.* Loans shall be made on eligible wheat stored in approved public grain warehouses in the following States:

Arizona, Arkansas, California, Colorado, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Loans will be made on eligible wheat stored on farms only in the following counties:

All counties in California, Colorado, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Vir-

ginia, Washington, West Virginia, Wisconsin, and Wyoming; and in the following counties of the following States:

New Mexico. Colfax, Curry, Harding, Quay, Rio Arriba, Roosevelt, San Juan, Taos, McKinley, Mora, San Miguel, and Union.

Oklahoma. Alfalfa, Beaver, Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Craig, Creek, Custer, Dewey, Ellis, Garfield, Grady, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, McClain, Major, Mayes, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pottawatomie, Rogers, Roger Mills, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, and Woodward.

Texas. Archer, Armstrong, Bailey, Baylor, Briscoe, Carson, Castro, Childress, Clay, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Garza, Gray, Hale, Hall, Hansford, Hartley, Hardeman, Haskell, Hamphill, Hockley, Hutchinson, Kent, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Farmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher, Terry, Throckmorton, Wheeler, Wichita, Wilbarger, Yoakum, and Young.

§ 212.3 *Amount of loans.* Basic loan values on wheat of the designated grades and subclasses stored in approved public grain warehouses or stored on farms in counties where farm storage is permitted are set out in 1940 C.C.C. Wheat Form 1—Supplement 1 and State Supplements thereto (1940 C.C.C. Wheat Form 1—Supplement 2—Arizona, etc.).¹

§ 212.6 *Protein premium.* The premium shall be added to the loan values of hard red spring, hard red winter, and hard white wheat with the indicated protein content. Such premiums will be added to the loan value of farm-stored wheat only where the producer presents a protein certificate issued by a laboratory satisfactory to the Commodity Credit Corporation and in the case of wheat stored in approved warehouses, the producer presents such a certificate attached to the warehouse receipt of an approved warehouseman or presents a warehouse receipt of such a warehouseman with protein content indicated thereon. Schedule of protein premium will be found in 1940 C.C.C. Wheat Form 1—Supplement 1.

§ 212.8 *Variation for grades.* Loan values for eligible grades and subclasses shall be at schedule of premiums and discounts shown in 1940 C.C.C. Wheat Form 1—Supplement 1.

§ 212.10 *Determination of dockage, smut, and garlic.* The percentage of dockage shall be determined in accordance with the Official Grain Standards of the United States and the weight of said dockage shall be deducted from the gross weight of the wheat in determin-

ing the net quantity available for loan. The smut condition of wheat shall be determined on a percentage basis in accordance with the Official Grain Standards of the United States, in California, Idaho, Nevada, Oregon, Utah, and Washington. In the foregoing area the quantity of smut shall be stated in percentage in accordance with the method described in paragraph (a) under "Smutty wheat" of the Official Grain Standards of the United States and shall be stated in terms of half percent, full percent, or whole and half percent, as the case may be, and the quantity of smut so determined in pounds shall be deducted from the weight of clean wheat after deduction of other dockage. Elsewhere the smut condition of wheat shall be determined on a degree basis in accordance with paragraph (b) under "Smutty wheat" of the Official Grain Standards of the United States: *Provided* That in the case of wheat which has an unmistakable odor of smut, or which contains balls, portions of balls, or spores of smut in excess of a quantity equal to 14 balls, but not in excess of a quantity equal to 30 balls, of average size in 250 grams of wheat, there shall be added to and made a part of the grade designation, the words "Light smutty": *Provided further*, That in the case of wheat which contains balls, portions of balls, or spores of smut, in excess of a quantity equal to 30 balls of average size in 250 grams of wheat, there shall be added to and made a part of the grade designation, the word "Smutty". The garlic condition of wheat shall be determined in accordance with the Official Grain Standards of the United States, and such condition shall be made a part of the grade designation by adding the words "Light garlicky" or the word "Garlicky," as determined under such standards.

§ 212.12 *Determination of quantity of wheat.* Loans shall be made at values expressed in cents per bushel, a bushel being determined to be 60 pounds of clean wheat free of dockage, when determined by weight, or 1.25 cubic feet of wheat testing 60 pounds per bushel when determined by measurement. A deduction of three-quarters of a pound for each sack will be made in determining the net quantity of the collateral when stored as sacked grain. In determining the quantity of wheat in farm storage by measurement, fractional pounds of the bushel test weight for wheat testing less than 60 pounds per bushel will be disregarded, and the quantity determined as above will be the following percentages of the quantity determined for 60-pound wheat:

	Percent
For wheat testing 60 pounds or over.....	100
For wheat testing 59 pounds or over, but less than 60 pounds.....	98
For wheat testing 58 pounds or over, but less than 59 pounds.....	97
For wheat testing 57 pounds or over, but less than 58 pounds.....	95
For wheat testing 56 pounds or over, but less than 57 pounds.....	93

	Percent
For wheat testing 55 pounds or over, but less than 56 pounds.....	92
For wheat testing 54 pounds or over, but less than 55 pounds.....	90
For wheat testing 53 pounds or over, but less than 54 pounds.....	88
For wheat testing 52 pounds or over, but less than 53 pounds.....	86
For wheat testing 51 pounds or over, but less than 52 pounds.....	83
For wheat testing 50 pounds or over, but less than 51 pounds.....	80

§ 212.13 *Maturity and interest rate.* Loans on 1940 C.C.C. Wheat Form A (farm storage) will mature ten (10) months from date of execution. Loans on 1940 C.C.C. Wheat Form B (warehouse storage) will mature eight (8) months from date of execution but not later than April 30, 1941. All loans will bear interest at the rate of 3 percent per annum.

§ 212.14 *Public warehouses.* Commodity Credit Corporation will accept only negotiable, insured warehouse receipts covering wheat pledged as collateral to notes on 1940 C.C.C. Wheat Form B issued by any public grain warehouse approved by or acceptable to Commodity Credit Corporation. Warehousemen desiring approval are advised to communicate with the Special Representative of Commodity Credit Corporation serving the area in which the warehouse is located. A list of the approved warehouses and their locations will be available at the office of the Special Representative shown in § 212.24 hereof or any State or county agricultural conservation office. The warehouse agreement will limit the warehouseman's lien and impose additional obligations to Commodity Credit Corporation. Approved warehousemen shall not issue and have outstanding at any time warehouse receipts in excess of the normal working capacity or licensed capacity of the warehouses. Under the terms of the warehouse agreement, warehousemen are required to deliver either the identical wheat or country-run quality wheat of the quantity, class, grade, and protein content within one-half of 1 percent as stated on the warehouse receipts or the accompanying documents. All wheat pledged as security for a note must be in the same warehouse, and each producer must arrange for the storage of wheat in an approved warehouse either at a country or terminal point. Producers should arrange for cleaning wheat placed in storage containing in excess of 2 percent dockage in order to avoid excessive charges for transportation, conditioning, and storage. Wheat containing smut or garlic should not be commingled by the warehouseman with wheat free from such smut or garlic.

§ 212.15 *Warehouse receipts.* Warehouse receipts must be dated on or prior to the date of the related note and properly assigned by an endorsement in blank so as to vest title in the holder, or issued to bearer, and must be issued by approved warehousemen who are not owners of the wheat. Unless the warehouse receipts are stamped or printed "Insured"

¹The State Supplements were filed as a part of the original document.

there must be attached, or included in the certificate of the warehouseman, the statement that the wheat is insured for not less than market value against the hazards of fire, lightning, inherent explosion, and windstorm, cyclone, and tornado. Commodity Credit Corporation will not accept warehouse receipts indicating any lien for charges prior to unloading in or delivery to the warehouse issuing such receipts. Lien for storage charges will be recognized by Commodity Credit Corporation only from May 15, 1940, or the dates of the warehouse receipts, whichever is later. Such receipts must set out in their written or printed terms the gross weight or bushels, the class and grade, degree or percentage of smut or garlic and dockage of the wheat represented thereby, and all other facts and statements required to be stated in the written or printed terms of a negotiable warehouse receipt under the provisions of section 2 of the Uniform Warehouse Receipts Act; such weight, grade, and protein determination (if any) shall be on basis of the inbound movement or delivery of grain to any approved warehouse; *Provided*, warehouse receipts must be accompanied by a certificate of the warehouseman identified to the warehouse receipt, setting forth the information required above which may not be included in such receipts. The moisture content of the wheat also must be shown except for wheat stored in following States: California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. (In the States of California, Idaho, Nevada, Oregon, Utah, and Washington where it is not the practice of warehousemen to show grade of wheat on the warehouse receipt, such receipt may be accompanied by a certificate of the warehouseman identifying the inspection certificate and protein content to said warehouse receipt in the following form:

I hereby certify that a representative sample was drawn by me from the wheat stored under warehouse receipt No. _____, that said sample was submitted to an inspector licensed under the U. S. Grain Standards Act and that this is the grade certificate that was issued thereon, and I agree further, on presentation of such warehouse receipt, to deliver to the holder thereof the identical grain represented thereby, or wheat of equal country-run quality of the same class and grade and protein, said protein to be delivered within tolerance of one-half of 1 percent if original wheat was analyzed for protein.

(Warehouseman)

Each warehouse receipt must also be accompanied by the original or duplicate original, official inbound, weight and inspection certificates and protein certificate properly identified to the wheat covered thereby, where available, provided that in the foregoing States and at terminal and subterminal warehouses in other areas where licensed inspectors are not available, certificates of the warehouseman and licensed grain inspector as to grade may be accepted. Such offi-

cial inbound weight and inspection certificates must represent wheat unloaded in the warehouse issuing said receipt and, except as stated above, the inspection certificate must be issued by an inspector licensed under the United States Grain Standards Act. Each warehouse receipt representing wheat received by rail or barge (except) those covering wheat of the subclasses soft white, western white, white club, red winter, western red, and red durum in any State and hard winter or yellow hard winter produced in the States, or in areas tributary to markets where protein content is not customarily (required) must either show the protein content, as determined by a recognized protein-testing laboratory or be accompanied by an original or duplicate certificate issued by such laboratory showing the protein content and properly identified as to the wheat covered thereby either by the respective warehouse receipt number, or the bin number and warehouse description, or by car number.

§ 212.16 *Farm storage*. Wheat stored on the farm must have been stored in the granary at least 30 days prior to its inspection for measurement, sampling, and sealing. In accordance with regulations issued by the Secretary of Agriculture, the State and county agricultural conservation committees will inspect and approve storage facilities and will arrange for measuring, sampling, grading, and sealing the wheat collateral in approved structures. Chattel mortgages covering farm-stored wheat must be executed and filed in accordance with the applicable State law. Producers may obtain information and assistance from the county agricultural conservation committees in regard to the execution and filing of such chattel mortgages. Where the borrower is a tenant farmer, and the wheat collateral is stored on the farm, the expiration date of the lease shall be given in section 2 (c) of the chattel mortgage. If the expiration date of the lease is prior to 1 year after the execution of the note, the borrower must secure from the owner and other interested parties, consent that the collateral may remain in the described storage structure for 1 year without any charge other than agreed to be paid to the borrower for storing the collateral. The consent agreement is set forth on the reverse side of the chattel mortgage. Each producer must designate in section 4 of the chattel mortgage a shipping point reasonably convenient for the delivery of the wheat as determined by the county committees. Notes and chattel mortgages will not be acceptable which provide a shipping point other than the normal shipping point customarily used by the producers in the locality in which the wheat was produced. A separate note and chattel mortgage must be submitted for wheat stored on each quarter section of land. Commodity Credit Corporation will pay 7 cents per bushel for

storing the wheat for the period ending 10 months from the execution of the loan, with the privilege of keeping the wheat in storage an additional 2 months without extra payment: *Provided*, Such payment will be conditioned upon the delivery of the mortgaged wheat of the quantity and quality described in the chattel mortgage: *Provided further*, That if delivery is made prior to maturity upon the request or with the consent of Commodity Credit Corporation, one-half cent per bushel per month or major portion thereof storage will be allowed for the time stored.

Deficiencies due to quantity or quality of wheat delivered or any other amount due Commodity Credit Corporation will be deducted from any amounts or allowances due borrower by Commodity Credit Corporation.

§ 212.17 *Chattel mortgages*. All documents must be carefully examined as to compliance with the following requirements:

California. The mortgage must be executed and acknowledged by the mortgagor and spouse. Mortgagor's affidavit of good faith and receipt must be completed by the mortgagor and spouse, and the mortgagee's affidavit of good faith must be completed by a member of the county committee as agent for Commodity Credit Corporation. The mortgage must be recorded in the office of the recorder of the county in which the wheat is stored, and if the mortgagor is a resident of another county in the State, a duplicate executed copy of the mortgage must be recorded in the office of the recorder of the county in which such mortgagor resides.

Colorado. The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy thereof must be filed for record in the office of the clerk and recorder of the county in which the wheat is stored.

Delaware. The mortgage must be executed and acknowledged by the mortgagor, and both the mortgagor's and mortgagee's affidavit of good faith must be executed. The mortgagee's affidavit must be completed by the payee of the note, or in case of direct loans, by a member of the county committee as agent of the Commodity Credit Corporation. The mortgage must be filed for record in the office of recorder in the county in which the wheat is stored within 10 days from the date of acknowledgment.

Idaho. The mortgage must be executed and acknowledged by the mortgagor and spouse. The original or a duplicate copy must have typed or stamped thereon the following affidavit signed and acknowledged by a member of the county committee as agent of Commodity Credit Corporation:

The undersigned, being duly sworn, deposes and states that he is the agent of Commodity Credit Corporation and that the foregoing mortgage is a true

and correct copy of the original mortgage executed by the mortgagor.

(Agent of Commodity Credit Corporation)

Subscribed and sworn to before me this _____ day of _____, 19____

(Notary Public)

The original or a duplicate copy with the foregoing affidavit must be filed for record in the office of the county recorder of the county in which the wheat is stored.

Illinois. The mortgage must be executed and acknowledged by the mortgagor. The original mortgage must be endorsed by the mortgagee or his agent as follows: "This mortgage to be filed but not recorded," and filed for record within 10 days from the date of execution in the office of the recorder of deeds of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of deeds of the county in which the wheat is stored. Commodity Credit Corporation will not accept any note secured by mortgage filed for record later than 10 days after the date of the note and mortgage.

Indiana. The mortgage must be executed and acknowledged by the mortgagor. The original mortgage must be filed for record within 10 days from the date of execution in the office of the recorder of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of the county in which the wheat is stored. Commodity Credit Corporation will not accept any note secured by mortgage recorded later than 10 days after the date of the note and mortgage.

Iowa. The mortgage must be executed and acknowledged by the mortgagor and spouse. The original or a duplicate copy must be filed for record in the office of the recorder of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of the county in which the wheat is stored.

Kansas. The mortgage must be executed by the mortgagor and spouse. The original or a duplicate copy must be filed for record immediately upon the execution of the mortgage in the office of the register of deeds of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the register of deeds of the county in which the wheat is stored. Commodity Credit Corporation will not accept any note secured by mortgage filed for record later than 10 days after the date of the note and mortgage.

Maryland. The mortgage must be executed and acknowledged by the mortgagor, and the mortgagor's affidavit of good faith must be executed. The mortgage must be filed for record in the office of the county clerk of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the county clerk of the county in which the wheat is stored.

Michigan. The mortgage must be executed by the mortgagor. The mortgagor's affidavit of good faith and receipt on such mortgage must be completed by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record in the office of the register of deeds of the county in which the wheat is stored. If the mortgagor resides in another county within the State, the triplicate copy of the mortgage must be certified as a true copy and filed for record in the office of the register of deeds of such county.

Minnesota. The chattel mortgage must be executed by the mortgagor in the presence of two witnesses and duly acknowledged. The original chattel mortgage must be filed in the office of the register of deeds of the county in which the wheat is situated, unless the wheat is situated in cities of the first class, whereupon the chattel mortgage must be filed in the office of the city clerk of the municipality where the wheat is situated. A full, true, and correct copy of the chattel mortgage must be delivered to the mortgagor whose receipt therefor is contained in the body of the mortgage.

Missouri. The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record in the office of the recorder of deeds of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of deeds of the county in which the wheat is stored.

Montana. The mortgage must be executed and acknowledged by the mortgagor. Mortgagor must execute receipt for copy of mortgage and such receipt must accompany the mortgage when presented for filing and be filed therewith. Mortgagee's affidavit of good faith must be completed by the payee of the note or in the case of direct loans by a member of the county committee as agent of the Commodity Credit Corporation and must be attached to the mortgage. The original mortgage, together with affidavit of good faith or a copy thereof certified to be correct by the officer before whom the same was acknowledged or verified or by the county clerk and recorder with whom it is filed, must be filed in the office of the county clerk and recorder of the county where the wheat is situated at the time of the execution of the mortgage, accompanied by the receipt for a copy of the mortgage.

Nebraska. The mortgage must be executed by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record in the office of the county clerk of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the county clerk of the county in which the wheat is stored.

Nevada. The mortgage must be executed and acknowledged by the mortgagor. The mortgagor's affidavit of good faith and receipt must be completed by

the mortgagor and the mortgagee's affidavit of good faith must be completed by a member of the county committee as agent of Commodity Credit Corporation. The original or a duplicate copy of the mortgage must be filed for record in the office of the county recorder of the county in which the wheat is stored. If the mortgagor is a resident of another county in the State, the triplicate copy of the mortgage must be certified as a true copy and filed for record in the office of the county recorder of the county in which such mortgagor resides.

New Mexico. The mortgage must be executed and acknowledged by the mortgagor, and the original or a duplicate copy of the mortgage must be filed in the office of the county clerk of the county in which the wheat is stored.

New York. The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy must be filed with the clerk or register of the town or city in which the mortgagor resides, if he is a resident of the State. If not a resident of the State, it must be filed in the office of the clerk or register of the town or city in which the property is located.

North Dakota. The mortgage must be executed by the mortgagor and spouse in the presence of two witnesses who must sign the same as witnesses thereto, or must be acknowledged before some official qualified to take acknowledgments. The mortgagor's receipt for copy of mortgage must be signed by the mortgagor and spouse and attached to the mortgage and must accompany the mortgage when presented for filing and be filed therewith. The original mortgage with receipt for copy attached thereto must be filed in the office of the register of deeds in the county in which the wheat is stored.

Ohio. The mortgage must be executed by the mortgagor. The mortgagee's affidavit of good faith must be completed by the payee except in the case of direct loans, in which event it must be completed by a member of the county committee as agent of Commodity Credit Corporation. The original or a duplicate copy must be filed in the office of the county recorder of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the county recorder of the county in which the wheat is stored.

Oklahoma. The mortgage must be properly executed and acknowledged by the mortgagor in the presence of a notary public or officer authorized to administer oaths. Commodity Credit Corporation will not accept any note secured by a mortgage wherein the execution has been witnessed and not acknowledged. The original or a duplicate copy of the mortgage must be filed for record in the office of the county clerk of the county in which the wheat is stored.

Oregon. The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy

must be filed for record in the office of the recorder of conveyances (in counties where there is such an office), otherwise in the office of the county clerk of the county in which the wheat is stored.

Pennsylvania. The mortgage must be executed by the mortgagor and acknowledged by someone authorized to take acknowledgements of deeds. The mortgage must be recorded in the office of the recorder of deeds of the county in which the mortgaged wheat is located at the time the mortgage is executed.

South Dakota. The chattel mortgage must be executed by the mortgagor in the presence of two persons who must sign as witnesses thereto, or it may be acknowledged before some officer qualified by the laws of the State of South Dakota to take acknowledgements. The original chattel mortgage, or an authenticated copy thereof, must be filed in the office of the register of deeds of the county where the wheat mortgaged, or any part thereof, is situated. A full, true, and complete copy of the mortgage must be delivered to the mortgagor, whose receipt therefor is contained in the body of the mortgage.

Texas. The mortgage must either be executed by the mortgagor in the presence of two witnesses or it must be acknowledged before an officer qualified to take the acknowledgments. The original or a duplicate copy of the mortgage must be filed for record immediately in the office of the county clerk of the county in which the wheat is stored or where the mortgagor resides. If the mortgagor is a nonresident of the State, it must be filed in the office of the county clerk of the county in which the wheat is stored. The Commodity Credit Corporation will not accept any note secured by a mortgage filed for record later than 10 days after the date of the note and mortgage.

Utah. The mortgage must be executed by the mortgagor and spouse in the presence of one witness. The mortgagor's affidavit of good faith and receipt must be completed by the mortgagor, and the mortgagee's affidavit of good faith must be completed by the payee of the note or, in case of direct loans, by a member of the county committee, as agent of Commodity Credit Corporation. The original or a duplicate copy of the mortgage must be filed for record in the office of the recorder of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of the county in which the wheat is stored.

Virginia. The mortgage must be executed by the mortgagor and acknowledged or proved by two witnesses before the Circuit Court of the County, the clerk of such court, or his duly authorized deputy. The mortgage must be recorded in the county where the mortgaged wheat is stored. The place of recording is the clerk's office where deeds are recorded.

Washington. The mortgage must be executed and acknowledged by the

mortgagor. The mortgagor's affidavit of good faith and receipt must be completed by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record within 10 days from the date of execution in the office of the county auditor of the county in which the wheat is stored. Commodity Credit Corporation will not accept any note secured by mortgage filed for record later than 10 days after the date of the note and mortgage.

West Virginia. The mortgage must be executed by the mortgagor and acknowledged or proved by two witnesses before the clerk of the county court. The mortgage must be recorded in the county court clerk's office of the county in which the mortgaged wheat is stored.

Wisconsin. The chattel mortgage must be executed by the mortgagor and spouse in the presence of two witnesses. The original mortgage must be filed with the register of deeds in the county in which the property is located.

Wyoming. The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy must be filed for record in the office of the register of deeds in the county in which the wheat is stored.

§ 212.18 *Liens.* The wheat collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in 1940 C.C.C. Wheat Form AA or B. The names of the holders of all existing liens on the pledged or mortgaged wheat, such as landlord, laborers, threshers, or mortgagees, must be listed in the space provided therefore in the mortgage or loan agreement. The waiver and consent to the pledge or mortgage of the wheat and the payment of the proceeds of the loan and the proceeds of the sale of the wheat solely to the producer as contained in the mortgage or loan agreement must be signed personally by all lienholders listed or by their duly authorized agents; or, if corporations, by the designated officer thereof customarily authorized to execute such instruments. (In lieu of signing the section of the chattel mortgage or loan agreement entitled "List of Lienholders and Their Waivers and Consent to Pledge," lienholders may sign 1940 C.C.C. Wheat Form AB, which must completely identify the related note.) The producer may direct in the letter of transmittal (1940 C.C.C. Wheat Form C) that the proceeds check for a loan be made payable to him and/or such other person or concern as he may direct thereon. Producers should read carefully all real estate or other mortgages previously given by them in order to be sure that crops are not covered thereby. Any fraudulent misrepresentation of fact made in the execution of the note and mortgage or loan agreement and related forms shall render the producer personally liable for the amount of the loan and subject to the provisions of the United States Criminal Code.

§ 212.19 *Insurance*—(a) *Wheat stored on farms.* All producers shall provide insurance on wheat stored on the farm for not less than the amount of the loan with accrued interest to maturity. Such insurance shall be evidenced by a certificate in a form approved by Commodity Credit Corporation, issued by a company or association licensed to do business in the State in which the wheat is stored. The insurance coverage may be obtained through the customary channels and the form of certificate required shall be furnished by the agent writing same. A special form of certificate must be used in the State of Texas, specimen copies of which may be obtained from the special representative office at Kansas City, Mo.

(b) *Wheat stored in approved warehouses.* With respect to wheat stored in approved public grain warehouses the warehouseman shall provide insurance against the perils of fire, lightning, inherent explosion, and windstorm, cyclone, and tornado for the full market value thereof so long as receipts are outstanding.

(c) *Insurance carried by Commodity Credit Corporation.* In addition to the foregoing, Commodity Credit Corporation has obtained a blanket insurance policy which protects it and the lending agency in the event of any loss by or in consequence of damage to or destruction of the pledged or mortgaged wheat arising from fire and lightning; cyclone, tornado, windstorm, and hail; theft and wrongful conversion; flood and inherent explosion. This policy is in the nature of errors and omission, and excess insurance, and the cost will be based on the daily average balance of loans outstanding. Commodity Credit Corporation will secure this insurance for all loans whether direct or indirect and the cost of the insurance will be paid from service fees collected from the producer.

§ 212.20 *County Agricultural conservation committee.* The forms 1940 C.C.C. Wheat Forms A and B contain a certificate which should not bear a date prior to the date of the note or loan agreement and which must be signed in each instance by a member of the county agricultural conservation committee of the county in which the wheat was produced for warehoused wheat, and the county in which the wheat is stored for farm-stored wheat.

§ 212.21 *Source and preparation of documents.* Forms will be obtainable from any county agricultural conservation committee in the areas designated in § 212.2 hereof and copies for the purpose of information may be obtained from the office of the Special Representative serving the area, listed in § 212.24 hereof. All blanks in 1940 C.C.C. Wheat Forms A, AA, and B must be filled in with ink, typewriter, or indelible pencil, and no documents containing additions, alterations, or erasures will be accepted by Commodity Credit Corporation. The forms are identified and no reprints or substitutes may be used. In

order to meet costs of local expenses County Agricultural Associations will collect a service fee for all loans, which fee will also cover any service the producer may require in having his loan documents completed.

§ 212.22 *Source of loans.* It is contemplated that loans will ordinarily be obtained from banks and other local lending agencies which, in turn, may sell the paper evidencing such loans to Commodity Credit Corporation. Producers may also obtain loans directly from Commodity Credit Corporation. Such notes shall be made payable to Commodity Credit Corporation and shall be delivered to the Special Representative serving the area in which the wheat is stored. Paper for direct loans tendered by mail, in person, or otherwise should be accompanied by a Producer's Letter of Transmittal, 1940 C.C.C. Wheat Form C, in duplicate, and must be delivered or postmarked prior to January 1, 1941. The triplicate copy of this letter shall be retained by the producer as a memorandum. Upon delivery of all necessary documents properly executed and upon approval of the loan by the Special Representative, payment will be made pursuant to the letter of transmittal.

§ 212.23 *Purchase of loan.* Commodity Credit Corporation will purchase, without recourse, eligible paper, as defined above, only from lending agencies which have executed and delivered to the office of the Special Representative to which notes are submitted Contract to Purchase, 1940 C.C.C. Form E, obtainable only from such Special Representative.

Paper held by lending agencies must be tendered 30 days prior to maturity to the Special Representative holding the Contract to Purchase and serving the area in which the wheat is stored. The purchase price to be paid by Commodity Credit Corporation for notes accepted will be the face amount of such notes plus accrued interest from the respective dates to the date of payment of the purchase price at the rate of 1½ percent per annum. Under the terms of the Contract to Purchase, lending agencies are required to report weekly on 1940 C.C.C. Form F all payments or collections on producers' notes held by them, and to remit with such report to Special Representative of Commodity Credit Corporation, as shown below, an amount equivalent to 1½ percent interest per annum on the principal amount collected from the date of the note to the date of payment.

§ 212.24 *Office of the special representatives.* The locations and addresses of the Special Representatives previously referred to herein and the areas served by them under these instructions are shown below:

Address of Special Representative and Area

164 West Jackson Boulevard, Chicago, Illinois, Delaware, Illinois (except East St. Louis), Indiana, Eastern Iowa, Kentucky, Maryland, Michigan, New York, Ohio, Penn-

sylvania, Tennessee, Virginia, West Virginia, Southern Wisconsin.

1014 Federal Reserve Bank Building, Kansas City, Mo., Arkansas, Colorado, Western Iowa, Kansas, Missouri, (also East St. Louis), Nebraska, New Mexico, Oklahoma, Texas, Wyoming.

438 McKnight Building, Minneapolis, Minn., Minnesota, Montana, North Dakota, South Dakota, Northern Wisconsin.

444 Pittock Block, Portland, Ore., Arizona, California, Idaho, Nevada, Oregon, Utah-Washington.

§ 212.25 *Release of collateral held by Commodity Credit Corporation.* A producer may obtain the return of notes secured by wheat upon his request in writing and payment of the principal amount due thereon with accrued interest. The producer's note, with the warehouse receipt(s) (if any) securing same, will be transmitted to an approved bank with instructions to deliver such documents to the producer or his agent, upon the payment of the full amount due thereon with accrued interest. Where such paper is sent to an approved bank for collection, instructions shall be given to return such paper to the sender if payment and release are not effected within 15 days. All charges and expenses of the collecting bank incident to collection of the note shall be paid by the producer. If the note is secured by farm-stored wheat, county agricultural conservation committees will be requested to release the mortgage of record after payment in full either by the filing of an instrument of release or by a margin release on the county records.

If the producer's note is made payable directly to Commodity Credit Corporation and he desires to obtain the release of collateral upon payment as aforesaid, he should notify the Special Representative serving the area in which the wheat is stored as above provided. If his note was made payable to a payee other than Commodity Credit Corporation the producer should notify the payee named therein.

§ 212.26 *Partial releases of collateral.* (a) In the case of farm-stored wheat, the producer must identify to the lending agency or Special Representative the seal number of the bin to be released. Such release must cover all the wheat in any one bin. Upon receipt of such a request, a partial release of the chattel mortgage will be forwarded to an approved bank to be released to the producer against payment of the amount loaned on the particular bin of wheat plus interest and charges.

(b) In the case of elevator-stored wheat, producers desiring to obtain partial releases should notify the lending agency or Special Representative serving the area in which the wheat is stored, describing the wheat to be released by warehouse receipt numbers. Each partial release must cover all the wheat under one warehouse receipt. The warehouse receipts representing wheat held by Commodity Credit Corporation will be

forwarded to an approved bank to be released to the producer or his agent against payment of the amount loaned on the wheat to be released, plus interest on such amount and any charges applicable thereto.

(c) Banks and other lending agencies holding notes on 1940 C.C.C. Wheat Forms A and B may also permit partial releases as provided above and Commodity Credit Corporation will purchase notes on which partial releases have been made, provided the note is credited by the lending agencies with the full amount of the loan on the wheat released, plus interest at the rate of 3 percent thereon. An amount equivalent to 1½ percent interest per annum on the amount of such principal collected at the time of such partial releases from the date of the note or notes to the date of payment should be remitted to Special Representative in accordance with the terms of the contract to purchase (1940 C.C.C. Form E).

(d) Payment will be made to the lending agency on the basis of the amount loaned on the collateral remaining pledged as security to the note, plus 1½ percent interest on such amount from the date of the note to the date of purchase.

[SEAL]

CARL B. ROBBINS,
President.

[F. R. Doc. 40-3708; Filed, September 4, 1940; 11:39 a. m.]

PART 212—1940 WHEAT LOANS

[1940 C. C. C. Wheat Form 1, Supp. 1,
Instructions]

Sec.	
212.4	Amount of Loans at Terminal Markets.
212.5	Amount of Loan at Country Points.
212.7	Protein Premiums.
212.9	Variations for Grades.
212.11	Discount for smut determined on a percentage basis.

§ 212.4 *Amount of loans at terminal markets.* Basic loan values on wheat of the designated grades and subclasses stored in approved public grain warehouses at the following terminal markets shall be as follows:

Market and Grade and Subclass

	Loan value per bushel
Kansas City, Mo.; Kansas City, Kans.;	
St. Joseph, Mo.:	
No. 2 Hard Winter.....	\$0.77
No. 2 Red Winter.....	.77
No. 1 Dark Northern Spring.....	.79
No. 1 Northern Spring.....	.77
No. 2 Soft White.....	.75
No. 2 Hard White.....	.76
Omaha, Nebr.; Council Bluffs, Iowa:	
No. 2 Hard Winter.....	.76½
No. 1 Dark Northern Spring.....	.80
No. 1 Northern Spring.....	.78
No. 2 Red Winter.....	.76½
No. 2 Hard White.....	.75½
No. 2 Soft White.....	.74½
Chicago, Ill.; Milwaukee, Wis.:	
No. 2 Hard Winter.....	.81
No. 2 Red Winter.....	.81
No. 1 Northern Spring.....	.82
St. Louis, Mo.; E. St. Louis, Mo.:	
No. 2 Hard Winter.....	.81
No. 2 Red Winter.....	.81

		Loan value per bushel
San Francisco, Los Angeles, Stockton, Oakland, Calif.:		
No. 1 Soft White	-----	\$0.77
No. 1 White Club	-----	.77
No. 1 Western White	-----	.77
No. 1 Hard Winter	-----	.77
No. 1 Western Red	-----	.77
Minneapolis, St. Paul, Duluth, Minn.;		
Superior, Wis.:		
No. 1 Dark Northern Spring	-----	.87
No. 1 Northern Spring	-----	.85
No. 2 Hard Winter	-----	.81
No. 2 Red Winter	-----	.79
No. 2 Amber Durum	-----	.81
No. 2 Red Durum	-----	.68
No. 2 Hard White	-----	.81
No. 2 Soft White	-----	.80
No. 2 Hard Amber Durum	-----	.83
No. 2 Amber Mixed Durum	-----	.78
No. 2 Mixed Durum	-----	.71
Portland, Oreg.; Seattle, Wash.:		
No. 1 Hard Federation, White Fed- eration, Baart, and Blue-stem Grading Hard White		
No. 1 Soft White	-----	.73
No. 1 Western White	-----	.73
No. 1 Hard Winter	-----	.73
No. 1 White Club	-----	.73
No. 1 Red Winter	-----	.73
No. 1 Western Red	-----	.73
No. 1 Northern Spring	-----	.73
Galveston, Tex.; New Orleans, La.:		
No. 2 Hard Winter	-----	.85
No. 2 Red Winter	-----	.83

The foregoing schedule of loan values applies to wheat delivered to any designated terminal market in carload lots which has been shipped by rail from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges and other documents as required under the Instructions (1940 C. C. C. Wheat Form 1); *Provided*, That Commodity Credit Corporation will accept in lieu of such bills, warehouse receipts on which a legend, signed by the warehouseman, has been stamped or typewritten in the following form or certificate of such warehouseman containing such an undertaking:

The wheat represented hereby was received by rail freight from -----

(Town) point
(County) (State)
of origin, as evidenced by original paid freight bill which has been officially registered for transit and will be held and kept alive, within statutory limitations, for the benefit of the holder hereof.

(Date of shipment) (Warehouseman)

(Date of signature) (Address)

Otherwise a deduction of eight cents (8¢) per bushel shall be made.

§ 212.5 *Amount of loan at country points.* (a) Except for the States and counties hereinafter set forth, Commodity Credit Corporation will determine the loan value on wheat in storage on the farm or in country warehouses by deducting from the designated terminal market value an amount equal to 3 cents more than the all-rail interstate freight rate (in effect on May 1, 1940) from the country warehouse points, or the shipping point designated by the producer, to such terminal market; except that in the appropriate counties of Illinois, Iowa,

Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin such rates shall be computed on the basis of the average freight rate from all shipping points other than subterminal markets in each county to the appropriate terminal market.

Each approved warehouse will be advised as to the loan value applicable to wheat stored in such warehouse. Producers may obtain from the county committee the loan values applicable to wheat stored on each farm and in the public warehouses. Loan values will be published in C.C.C. Wheat Form 1, Supplement 2, for each State.

The loan value of eligible wheat stored in approved warehouses (other than those situated in the designated terminal markets) which was shipped by rail may be determined by deducting from the appropriate designated terminal market loan value an amount equal to the transit balance of the through freight rate from point of origin for such wheat to such terminal market: *Provided*, In the case of wheat stored at any railroad transit point, taking a penalty by reason of out of line movement, or for any other reason, to the appropriate designated market, there shall be added to such transit balance an amount equal to any out of line or other costs incurred in storing loan wheat in such position as determined by Commodity Credit Corporation. Arrangements have been made for the railroads to indicate transit balance of the through rate on the in-bound paid freight bills on a basis of 100 pounds. To obtain the loan value as determined above, the warehouse receipts, in addition to other required documents, must be accompanied by the original paid freight bills duly registered for transit privileges: *Provided*, That Commodity Credit Corporation will accept in lieu of such bills, warehouse receipts on which a legend, signed by the warehouseman, has been stamped or typewritten substantially in the following form or certificate of such warehouseman containing such an undertaking:

The wheat represented hereby was received by rail freight as evidenced by original paid freight bill which has been officially registered for transit and will be held and kept alive, within statutory and tariff limitations, for the benefit of the holder hereof. The aforementioned original paid freight bill carries notation thereon by the railroad agent showing transit balance, if any, of through rate from -----

(Town) (County) (State)
point of origin, to -----
(Basic loan terminal market)
of ----- cents per 100 pounds.

(Date of shipment) (Warehouseman)

(Date of signature) (Address)

(b) Separate schedules of loan values will be issued for the States and counties hereinafter set forth:

Colorado. The counties of Alamosa, Archuleta, Chaffee, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Fremont,

Garfield, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, San Miguel.

Idaho. All counties south of Idaho County.

New Mexico. The counties of Colfax, Curry, Harding, Quay, Rio Arriba, Roosevelt, San Juan, Taos, McKinley, Mora, San Miguel, Union.

Utah. All counties.

Wyoming. The counties of Lincoln, Sublette, Sweetwater, Teton, Uinta.

All counties in the following States: Delaware, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia.

The loan value of eligible wheat stored in approved warehouses in the foregoing area which was shipped by rail in the movement of natural market direction as approved by Commodity Credit Corporation, shall be determined by adding 3 cents per bushel to the country loan value for the county from which the wheat is shipped and an amount equal to the transit value of the freight paid from point of origin to markets designated by Commodity Credit Corporation. Lending agencies and County Committees are advised that in each instance such transit value must be verified by the Special Representative of the Commodity Credit Corporation serving the area. In such cases, the loan documents must be accompanied by the original paid freight bills or certificates of the warehouseman and other required documents as set forth in § 212.5 (a) above. If eligible loan wheat is stored in approved warehouses located at transit points, taking a penalty by reason of back haul, or out of line of natural market movement, such penalty or other costs by reason of such movement, as determined by Commodity Credit Corporation, shall be deducted from loan values as determined above.

In such cases, the warehouse receipts in addition to the required documents as set forth in C.C.C. Wheat Form 1, § 212.15 must be accompanied by the original or duplicate original paid freight bills, or certificates of the warehouseman as to such paid freight bills. Such certificate shall be in the following form:

The wheat represented hereby was received by rail freight as evidenced by original paid freight bill which has been officially registered for transit and will be held and kept alive within statutory and tariff limitations, for the benefit of the holder hereof. Said original paid freight bill carries notation thereon showing the portion of the through rail freight from -----

(Town) shipping

(County) (State)

point of origin, paid into -----

(Town) transit

(County) (State)

point, of ----- cents per pound. The undersigned warehouseman states to the best of his knowledge, said freight bill represents the usual rail movement of said wheat and that there are no back haul or out of line

haul railroad penalties or other costs in connection therewith.

(Date of shipment)	(Warehouseman)
(Date of Signature)	(Address)

§ 212.7 Protein Premiums.

Protein content (percent)	Premium above loan rate otherwise computed	
	At Los Angeles and San Francisco, Calif., Minneapolis, St. Paul, and Duluth, Minn.; Superior, Wis.; Portland, Oreg.; Seattle, Wash.; and all country points where the loan value is based on such terminal markets	At Kansas City and St. Joseph, Mo.; Kansas City, Kans.; Omaha, Nebr.; Council Bluffs, Iowa; Galveston and Houston, Tex.; New Orleans, La.; and all country points where the loan value is based on such terminal markets
12.9 or less	0	0
13.0-13.9	1	1
14.0-14.4	2	2
14.5-14.9	3	2
15.0-15.4	4	3
15.5-15.9	5	3
16.0-16.4	6	4
16.5-16.9	7	4
17.0-17.4	8	5
17.5 or over	9	5

§ 212.9 Variations for grades. Loan values for eligible grades and subclasses shall be at the following schedule of premiums and discounts:

(a) Where the loan value is based on No. 2 wheat, the loan value on No. 1 wheat shall be 1 cent more than the loan value on No. 2; the loan value on No. 3 wheat shall be 2 cents less than the loan value on No. 2; the loan value on No. 4 wheat shall be 5 cents less than the loan value on No. 2; and the loan value on No. 5 wheat shall be 8 cents less than the loan value on No. 2.

(b) Where the loan value is based on No. 1 wheat, the loan value on No. 2 wheat shall be 1 cent less than the loan value on No. 1; the loan value on No. 3 wheat shall be 3 cents less than the loan value on No. 1; the loan value on No. 4 wheat shall be 6 cents less than the loan value on No. 1; and the loan value on No. 5 wheat shall be 9 cents less than the loan value on No. 1.

(c) The loan value on No. 1 Heavy Dark Northern Spring shall be 1 cent more than the loan value on No. 1 Dark Northern Spring, and the loan value on No. 1 Heavy Northern Spring shall be 1 cent more than the loan value on No. 1 Northern Spring, and the loan value on No. 1 Red Spring shall be 2 cents less than the loan value on No. 1 Northern Spring.

(d) The loan value on Yellow Hard Winter shall be 2 cents less than the loan value on Hard Winter.

(e) The loan value on Hard White shall be 1 cent more than the loan value on Soft White, except as otherwise provided in C.C.C. Wheat Form 1 or supplements thereto.

No. 173—2

(f) The loan value on Durum wheat shall be 7 cents less than the loan value on Amber Durum wheat.

(g) The loan value on mixed wheat shall be 2 cents per bushel below the established loan rate on the comparable numerical grade of that class of wheat contained in the mixture which would take the lowest loan rate applicable to any subclass thereof if it were not mixed.

§ 212.11 Discount for smut determined on a percentage basis.

Cents per bushel	
½ % to 1%, inclusive	1.05
1½ % to 3%, inclusive	1.35
3½ % to 7%, inclusive	1.95
7½ % to 15%, inclusive	2.55

The discounts for smut and garlic determined on a degree basis shall be as follows:

Cents per bushel	
Light smutty	3
Smutty	6
Light garlicky	2
Garlicky	6

[SEAL] CARL B. ROBBINS,
President.

[P. R. Doc. 40-3709; Filed, September 4, 1940;
11:40 a. m.]

PART 213—1940 RYE LOANS

[1940 C. C. C. Rye Form 1—Instructions]

Sec.	Definitions.
213.1	Areas.
213.2	Amount of Loans.
213.3	Maturity and Interest Rate.
213.4	Farm Storage.
213.5	Liens.
213.6	Insurance.
213.7	County Agricultural Conservation Committees.
213.8	Offices of the Special Representatives of Commodity Credit Corporation.
213.9	Release of Collateral.
213.10	

§ 213.1 Definitions. For the purpose of these instructions and the notes and chattel mortgages relating thereto, the following terms shall be construed, respectively, to mean:

(a) *Eligible Producer.* Any person, partnership, association or corporation producing rye as landowner, landlord, or tenant upon whose farm the 1940 total soil-depleting acreage does not exceed the total soil-depleting acreage allotment for the farm under the 1940 Agricultural Conservation Program.

(b) *Eligible rye.* Rye grading No. 2 or better or rye grading No. 3 solely on the factor of test weight but otherwise grading No. 2 or better produced in 1940, the beneficial interest to which is and always has been in the eligible producer. Rye grading tough, light smutty, smutty, light garlicky, garlicky or rye containing in excess of one percent (1%) ergot shall not be eligible for a loan. Rye containing in excess of 3/10 of one percent, but not in excess of one percent (1%) ergot shall be eligible for a loan at discounts set out in § 213.3 hereof.

(c) *Eligible storage.* Shall consist of farm bins and granaries which are of such substantial and firm construction as to afford safe storage of the rye for a period of two (2) years and permit effective fumigation for the destruction of insects and afford protection against rodents, other animals, thieves, and weather, as determined by the county agricultural conservation committees.

(d) *Lending agency.* Any bank, cooperative marketing association, or other corporation, partnership, or person making loans in accordance with these instructions, which has executed the Contract to Purchase on 1940 C.C.C. Form E.

(e) *Eligible paper.* Eligible paper shall consist of notes of producers secured by Chattel Mortgages representing rye in existence and undamaged from the perils of fire, lightning, inherent explosion, cyclone, tornado, windstorm and flood, dated on or subsequent to June 1, 1940, and prior to January 1, 1941, and executed in accordance with these instructions, with State documentary revenue stamps affixed thereto, where required by law. Notes executed by an Administrator, Executor, or Trustee will be acceptable only where valid in law.

§ 213.2 Areas. Loans will be made on eligible rye stored on farms in the States of Michigan, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin and Wyoming.

§ 213.3 Amount of loans. The loan value for eligible rye grading No. 2 or better, or rye grading No. 3 solely on the factor of test weight but otherwise grading No. 2 or better, shall be twenty-two (22) cents per bushel less than the applicable farm storage loan value for No. 2 Hard Winter Wheat (under the 1940 Wheat Loan Program of Commodity Credit Corporation) or thirty-eight (38) cents per bushel, whichever is lower, except that the loan value for eligible rye containing in excess of 1/10 of one percent and less than one percent (1%) ergot shall be discounted one cent for each 1/10 of one percent ergot in excess of 1/10 of one percent.

§ 213.4 Maturity and interest rate. All loans upon the security of rye may be made by local lending agencies or by Commodity Credit Corporation and the notes evidencing such loans will be payable on demand or will mature ten (10) months from date of execution. All loans will bear interest at the rate of three (3) percent per annum. Notes evidencing such loans must be dated on or before December 31, 1940.

§ 213.5 Farm storage. Rye stored on the farm must have been stored in the granary at least thirty (30) days prior to its inspection for measurement, sampling and sealing. In accordance with regulations issued by the Secretary of Agriculture, the State and county agricultural conservation committees will in-

spect and approve storage facilities and will arrange for measuring, sampling, grading and sealing the rye collateral in approved structures.

Chattel mortgages covering farm-stored rye must be executed and filed in accordance with the applicable state law. The chattel mortgage requirements of the various States are set forth in § 212.17 of the wheat loan instructions (1940 C.C.C. Wheat Form 1). Producers may obtain information and assistance from the county agricultural conservation committees in regard to the execution and filing of such chattel mortgages. Where the borrower is a tenant farmer, and the rye collateral is stored on the farm, the expiration date of the lease shall be given in section 2 (c) of the chattel mortgage (1940 C.C.C. Rye Form AA). If the expiration date of the lease is prior to one year from the execution of the note, the landlord shall execute the Consent for Storage, section 13 of 1940 C.C.C. Rye Form AA. The consent agreement shall also be signed by any other party or parties entitled to possession. Each producer must designate in section 4 of the mortgage (1940 C.C.C. Rye Form AA) a shipping point reasonably convenient for the delivery of the rye as determined by the county committee. Notes and mortgages will not be acceptable which provide a shipping point other than the normal shipping point customarily used by the producers in the locality in which the rye was produced. A separate note and chattel mortgage must be submitted for rye stored on each quarter section of land. Commodity Credit Corporation will pay seven (7) cents per bushel for storing the rye for the period ending 10 months from the execution of the note, or the date of the delivery of such rye to Commodity Credit Corporation, whichever is earlier; provided, such delivery is made upon the demand or with the consent of Commodity Credit Corporation; provided further, such payment will be conditioned upon the delivery of the mortgaged rye or the quantity and quality described in the Chattel mortgage. If a loan is called by Commodity Credit Corporation due to deterioration of the rye collateral, storage allowance of $\frac{1}{2}$ cent per month will be made for each full month or major portion thereof the rye is stored.

§ 213.6 *Liens.* The rye collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in 1940 C.C.C. Rye Form AA. The names of the holders of all existing liens on the pledged or mortgaged rye, such as landlord, laborers, threshers, or mortgagees, must be listed in the space provided therefor in the chattel mortgage. The waiver and consent to the mortgage of the rye and the payment of the proceeds of the loan and the proceeds of the sale of the rye solely to the producer as contained in the mortgage must be signed personally by all lienholders listed or by their agents hav-

ing proper authority. Such waiver and consent, etc., may be executed for a corporation by a designated officer thereof customarily authorized to execute such instruments. (In lieu of signing the section of the chattel mortgage entitled "List of Lienholders and Their Waivers and Consent to Pledge", lienholders may sign 1940 C.C.C. Wheat Form AB, properly corrected, which must completely identify the related note.) The producer may direct in the Letter of Transmittal (1940 C.C.C. Wheat Form C), properly corrected, that the proceeds of the loan be made payable to him and/or such other person or concern as he may direct thereon. Producers should read carefully all real estate or other mortgages previously given by them in order to be sure that crops are not covered thereby. Any fraudulent misrepresentation of fact made in the execution of the note and mortgage and related forms shall render the producer personally liable for the amount of the loan and subject to the provisions of the United States Criminal Code.

§ 213.7 *Insurance.* Producers must obtain primary insurance on rye for not less than the amount of the loan plus accrued interest to maturity. Such insurance shall be evidenced by a certificate, in a form approved by Commodity Credit Corporation, issued by a company or association licensed to do business in the State in which the rye is stored. In addition to the foregoing, Commodity Credit Corporation has obtained a blanket insurance policy to protect it against errors and omissions in the primary insurance coverage, e. g., failure of primary insurance company to pay loss on account of theft and wrongful conversion, flood and inherent explosion, and certain other risks not covered by the primary insurance carried by the producers. This secondary insurance will be secured by Commodity Credit Corporation for all loans and the cost of the insurance will be paid from service fees collected from the producer.

§ 213.8 *County Agricultural Conservation Committees.* Forms will be obtainable from county agricultural conservation committees in the above-named States or from the office of the Special Representative of Commodity Credit Corporation serving the area. The producer's note contains a certificate which must be signed in each instance by a member of the county committee of the county in which the rye is stored. Pursuant to instructions issued by the Secretary of Agriculture, the State and county committees will determine or cause to be determined, the quantity and grade of the rye collateral and the amount of the loan. All loan documents will be examined and approved by the County Committee, who will retain all documents except the producer's note, which shall be forwarded to the Payee with the Producer's Letter of Transmittal.

§ 213.9 *Offices of the special representatives of Commodity Credit Cor-*

poration. The locations and addresses of the Special Representatives previously referred to herein and the areas served by them under these instructions are shown in § 212.24 of the Instructions, 1940 C.C.C. Wheat Form 1.

§ 213.10 *Release of collateral.* The producer may obtain the return of notes secured by rye at any time prior to maturity upon the payment of the principal amount due thereon, plus accrued interest. In the case of such repayment, no allowance will be made for storage by Commodity Credit Corporation. The loan paper may be sent to an approved bank for collection or the producer may ascertain the amount due and remit directly to Commodity Credit Corporation, at the address indicated above. Partial releases will be made, provided all the rye in any one bin is released. In such cases, the producers must identify to the Office of the Special Representative of Commodity Credit Corporation the seal number of the bin to be released. Such releases will be made upon payment of the amount loaned on the particular bin or rye, plus interest.

[SEAL]

CARL B. ROBBINS,
President.

[F. R. Doc. 40-3710; Filed, September 4, 1940;
11:40 a. m.]

PART 214—1940 BARLEY LOANS

[1940 C.C.C. Barley Form 1—Instructions]

Sec.	
214.1	Definitions.
214.2	Areas in which loans will be made.
214.3	Amount of loans.
214.4	Maturity and interest rate.
214.5	Farm storage.
214.6	Chattel mortgages.
214.7	Public warehouses.
214.8	Warehouse receipts.
214.9	Liens.
214.10	Insurance.
214.11	County Agricultural Conservation Committee.
214.12	Source of loans.
214.13	Purchase of loans.
214.14	Offices of the special representative of Commodity Credit Corporation.
214.15	Release of collateral.

§ 214.1 *Definitions.* For the purpose of these instructions and the notes and chattel mortgages relating thereto, the following terms shall be construed, respectively, to mean:

(a) *Eligible producer.* Any person, partnership, association or corporation producing barley as landowner, landlord, or tenant upon whose farm the 1940 total soil-depleting acreage does not exceed the total soil-depleting acreage allotment or permitted acreage under the 1940 Agricultural Conservation Program.

(b) *Eligible barley.* Barley of any class grading No. 5 or better, which was produced in 1940, the beneficial interest to which is and always has been in the eligible producer. Barley grading weevily, stained, blighted, smutty, garlicky, ergoty, bleached or tough shall not be eligible for a loan.

(c) *Eligible storage* shall include public grain warehouses and farm-storage, meeting the following respective requirements:

(1) Public grain warehouses as set out in § 214.2 which have met the requirements of Commodity Credit Corporation and have executed warehouse agreements approved by Commodity Credit Corporation. Such warehouses may be situated at either terminal or country points.

(2) Farm-storage shall consist of farm bins, and granaries which are of such substantial and firm construction as to afford safe storage of the barley for a period of two years and permit effective fumigation for the destruction of insects and afford protection against rodents, other animals, thieves and weather, as determined by the County Agricultural Conservation Committee.

(d) *Lending agency.* Any bank, cooperative marketing association, or other corporation, partnership, or person making loans in accordance with these instructions, which has executed the Contract to Purchase on 1940 C.C.C. Form E.

(e) *Eligible paper.* Eligible paper shall consist of notes of the producers secured by chattel mortgages or warehouse receipts representing barley in existence and undamaged from the perils of fire, lightning, inherent explosion, cyclone, tornado, windstorm and flood, dated on or subsequent to June 1, 1940 and prior to January 1, 1941, and executed in accordance with these instructions, with State documentary revenue stamps affixed thereto where required by law. Notes executed by an administrator, executor, or trustee will be acceptable only where valid in law.

§ 214.2 *Areas in which loans will be made.* Loans will be made available on eligible barley when stored in approved public grain warehouses in the States of California, Oregon, and Washington, or when stored on farms in the following counties:

All counties in California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming.

§ 214.3 *Amount of loans.* Loan values on barley shall be based on the numerical grade, irrespective of subclass, except mixed barley, class IV, in accordance with the following schedule.

	Cents per bushel
Barley stored on farms:	
#1 barley.....	35
#2 barley.....	34
#3 barley.....	32
#4 barley.....	29
#5 barley.....	25
	Cents per bushel
Barley stored in public warehouses:	
#1 barley.....	28
#2 barley.....	27
#3 barley.....	25
#4 barley.....	22
#5 barley.....	18

The above loan values are subject to a discount of 2¢ per bushel for mixed barley.

§ 214.4 *Maturity and interest rate.* Notes secured by farm-stored barley shall mature on demand or ten (10) months from the date thereof and notes secured by warehouse receipts representing barley shall mature on demand, ten (10) months from the date thereof, or April 30, 1941, whichever is earlier. All loans will bear interest at the rate of 3% per annum. Notes evidencing such loans must be dated on or before December 31, 1940.

§ 214.5 *Farm storage.* Barley stored on the farm must have been stored in the granary at least thirty (30) days prior to its inspection for measurement, sampling and sealing. In accordance with regulations issued by the Secretary of Agriculture, the State and county agricultural conservation committees will inspect and approve storage facilities and will arrange for measuring, sampling, grading and sealing the barley collateral in approved structures. Chattel mortgages covering farm-stored barley must be executed and filed in accordance with the applicable state law. The chattel mortgage requirements of the various States are set forth in § 212.17 of the wheat loan instructions. (1940 C.C.C. Wheat Form 1.) Producers may obtain information and assistance from the county agricultural conservation committees in regard to the execution and filing of such chattel mortgages. Where the borrower is a tenant farmer and the barley collateral is stored on the farm, the expiration date of the lease shall be given in section 2 (c) of the chattel mortgage. If the expiration date of the lease is prior to one year from the execution of the note, the landlord shall execute the Consent for Storage, Section 11 of the Chattel Mortgage. The consent agreement shall also be signed by any other party or parties entitled to possession. Each producer must designate in section 4 of the chattel mortgage a shipping point reasonably convenient for the delivery of the barley as determined by the county committee. Notes and mortgages will not be acceptable which provide a shipping point other than the normal shipping point customarily used by the producers in the locality in which the barley was produced. A separate note and chattel mortgage must be submitted for barley stored on each quarter section of land.

§ 214.6 *Chattel mortgages.* All documents must be carefully examined as to compliance with the requirements set out in Section 212.17—1940 C.C.C. Wheat Form 1.

§ 214.7 *Public warehouses.* Commodity Credit Corporation will accept only negotiable insured warehouse receipts covering barley pledged as collateral to notes on 1940 C.C.C. Wheat Form B, properly corrected, issued by any public grain warehouse approved by or acceptable to Commodity Credit Corporation

in the States of California, Oregon and Washington. Warehousemen desiring approval should communicate with the Special Representative of Commodity Credit Corporation at Portland, Oregon, at which office will be available a list of approved warehouses and their locations. A list of approved warehouses for the area may also be obtained at any State or County Agricultural Conservation Office. Approved warehousemen shall not issue and have outstanding at any time warehouse receipts in excess of the normal working capacity or licensed capacity of the warehouse. Warehousemen shall be required to deliver either the identical barley or country-run barley equal to that described in the warehouse receipts and accompanying certificates or documents.

§ 214.8 *Warehouse receipts.* Warehouse receipts must be dated on or prior to the date of the related note and properly assigned by an endorsement in blank, so as to vest title in the holder, or issued to bearer, and must be issued by approved warehousemen who are not owners of the barley. Unless the warehouse receipts are stamped or printed "insured" there must be attached or included in the Certificate of the warehouseman, the statement that the barley is insured for not less than the market value, against the hazards of fire, lightning, inherent explosion, windstorm, cyclone and tornado. Commodity Credit Corporation will not accept warehouse receipts indicating any lien for charges prior to unloading in or delivery to the warehouse issuing such receipts. Lien for storage charges will be recognized by Commodity Credit Corporation only from May 15, 1940 or the dates of the warehouse receipts, whichever is later. Such receipts must set out in their written or printed terms the gross weight or bushels, the class and grade, the percentage of sound barley, test weight and all other facts and statements required to be stated in the written or printed terms of the negotiable warehouse receipts under the provisions of section 2 of the Uniform Warehouse Receipts Act or to be accompanied by the Certificate of the warehouseman identified to such warehouse receipt, setting out such information and shall be based on the in-bound movement or delivery of the grain to an approved warehouse.

§ 214.9 *Liens.* The barley collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in the chattel mortgage or note and loan agreement. The names of the holders of all existing liens on the pledged or mortgaged barley, such as landlord, laborers, threshers, or mortgagees, must be listed in the space provided therefor in the mortgage or loan agreement. The waiver and consent to the pledge or mortgage of the barley and the payment of the proceeds of the loan and the proceeds of the sale of the barley solely to the producer as contained in

the mortgage or loan agreement must be signed personally by all lienholders listed or by their duly authorized agents; or, if corporations, by the designated officer thereof customarily authorized to execute such instruments. (In lieu of signing the section of the chattel mortgage entitled "List of Lienholders and Their Waivers and Consent to Pledge", lienholders may sign 1940 C.C.C. Wheat Form AB, properly corrected, which must completely identify the related note.) The producer may direct in the letter of Transmittal (1940 C.C.C. Wheat Form C, properly corrected) that the proceeds of the loan be made payable to him and/or such other person or concern as he may direct thereon. Producers should read carefully all real estate or other mortgages previously given by them in order to be sure that crops are not covered thereby. Any fraudulent misrepresentation of fact made in the execution of the note and mortgage and related forms shall render the producer personally liable for the amount of the loan and subject to the provisions of the United States Criminal Code.

§ 214.10 *Insurance*—(a) *Barley stored on farms*. The producer must obtain primary insurance on barley stored on the farm for not less than the amount of the loan, plus accrued interest to maturity. Such insurance shall be evidenced by a certificate in a form approved by Commodity Credit Corporation issued by a Company or Association licensed to do business in the State in which the barley is stored. The insurance coverage may be obtained through the customary channels and the form of certificate required shall be furnished by the Agent writing same.

(b) *Barley stored in approved warehouses*. With respect to such barley, the warehouseman shall provide insurance against the perils of fire, lightning, inherent explosion and windstorm, cyclone and tornado, for the full market value thereof, so long as receipts are outstanding. In addition to the foregoing, Commodity Credit Corporation has obtained a blanket insurance policy to protect it against errors and omissions in the primary insurance coverage, e. g., the failure of the primary insurance to pay losses on account of theft and wrongful conversion, flood and inherent explosion, and certain other risks not covered by the primary insurance. This secondary insurance will be secured by Commodity Credit Corporation for all loans and the cost of the insurance will be paid from the service fees collected from producers.

§ 214.11 *County Agricultural Conservation Committee*. Forms will be obtained from the County Agricultural Conservation Committee in the above-named States or from the office of the Special Representative of Commodity Credit Corporation, hereinafter listed. The producers' notes contain a certificate which should not bear a date prior to the date of the note or loan agree-

ment and which must be signed in each instance by a member of the County Agricultural Conservation Committee of the County in which the barley was produced, for warehoused barley, and the county in which the barley is stored, for farm-stored barley. Pursuant to instructions issued by the Secretary of Agriculture, the State and County Committees will determine or cause to be determined the quantity and grade of the barley collateral and the amount of the loan. All loan documents will be examined and approved by the County Committee, who will retain all documents except the producer's note. In order to meet the cost of the local expenses, County Agricultural Associations will collect a service fee for all loans.

§ 214.12 *Source of loans*. Loans may be obtained from banks and other local lending agencies, which in turn, may sell the paper evidencing such loans to Commodity Credit Corporation. Producers may also obtain loans direct from the Corporation on notes made payable to the Corporation, which shall be delivered to the Special Representative serving the area in which the barley is stored, accompanied by producers' Letter of Transmittal in duplicate, delivered or postmarked prior to January 1, 1941. Upon approval of the loan by the Special Representative, payment will be made pursuant to the Letter of Transmittal.

§ 214.13 *Purchase of loans*. Commodity Credit Corporation will purchase, without recourse, eligible paper, as defined above, only from lending agencies which have executed and delivered to the office of the Special Representative to which notes are submitted Contract to Purchase, 1940 C.C.C. Form E, obtainable only from such Special Representatives.

Paper held by lending agencies must be tendered 30 days prior to maturity to the Special Representative holding the Contract to Purchase and serving the area in which the barley is stored. The purchase price to be paid by Commodity Credit Corporation for notes accepted will be the face amount of such notes plus accrued interest from the respective dates to the date of payment of the purchase price at the rate of 1½ percent per annum. Under the terms of the Contract to Purchase, lending agencies are required to report weekly on 1940 C.C.C. Barley Form F all payments or collections on producers' notes held by them, and to remit with such report to Special Representative of Commodity Credit Corporation, as shown below, an amount equivalent to 1½ percent interest per annum on the principal amount collected from the date of the note to the date of payment.

§ 214.14 *Offices of the special representative of Commodity Credit Corporation*. The locations and addresses of the Special Representatives previously referred to herein and the areas served by them under these instructions are shown

in § 212.24 of the Instructions, 1940 C.C.C. Wheat Form 1.

§ 214.15 *Release of collateral*. The producer may obtain the return of notes secured by barley at any time prior to maturity, upon the payment of the principal amount due thereon, plus accrued interest and charges. No allowance will be made for storage by Commodity Credit Corporation. The loan paper may be sent to an approved bank for collection or the producer may ascertain the amount due and remit directly to the office of the Special Representative of Commodity Credit Corporation holding the paper. Partial releases of collateral will be made as follows:

(a) In the case of farm-stored barley, the producer must identify to the Special Representative the seal number of the bin to be released. Such release must cover all the barley in any one bin. Such release will be made upon payment of the amount loaned on the particular bin of barley, plus interest.

(b) In the case of elevator-stored barley, producers desiring to obtain partial release should notify the Special Representative serving the area in which the barley is stored, describing the barley to be released, by warehouse receipt numbers. Each partial release must cover all the barley under one warehouse receipt. The warehouse receipt representing barley will be released against payment of the amount loaned on the barley to be released, plus interest on such amount and any charges applicable thereto.

[SEAL] CARL B. ROBBINS,
President.

[F. R. Doc. 40-3711; Filed, September 4, 1940;
11:40 a. m.]

[1940 Barley Circular Letter No. 2, Supplemental Instructions]

1940 BARLEY LOANS

AMENDMENTS

JULY 9, 1940.

The instructions contained in 1940 Barley Circular Letter No. 1 (Supplemental Instructions) issued June 27, 1940, are hereby rescinded and the following substituted in lieu thereof:

Sections 214.2 and 214.3 of 1940 C. C. C. Barley Form 1 (Instructions) are hereby deleted and the following paragraphs 214.2 and 214.3 are substituted in lieu thereof.

§ 214.2 *Areas in which loans will be made*. Loans will be made available on eligible barley when stored in approved public grain warehouses in the States of California, Kansas, Oklahoma, Oregon, Texas, Washington, and the following counties in the State of Idaho: Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, and Idaho, or when stored on farms in the following counties:

All counties in California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana,

Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming.

§ 214.3 *Amount of loans.* Loan values on barley except Mixed Barley (Class IV) shall be based for all classes on the numerical grades as provided in the Official Grain Standards of the United States, in accordance with the following schedules:

(a) Barley stored on farms, or barley stored in an approved warehouse in all states in which warehouse-stored barley loans are available, if the warehouse receipt representing the warehouse-stored barley has stamped or typed thereon the following legend signed by the warehouseman:

Handling and storage charges for the period ending June 30, 1941* on the barley represented by this warehouse receipt have been paid or otherwise provided for and lien for such charges will not be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of this warehouse receipt.

Address	Signed Warehouseman	Cents per bushel
#1 barley	-----	35
#2 barley	-----	34
#3 barley	-----	32
#4 barley	-----	29
#5 barley	-----	25

(b) Barley stored in approved warehouses in all States in which warehouse-stored barley loans are available where lien for charges has not been waived as provided above:

Address	Signed Warehouseman	Cents per bushel
#1 barley	-----	28
#2 barley	-----	27
#3 barley	-----	25
#4 barley	-----	22
#5 barley	-----	18

The above loan values are subject to a discount of 2¢ per bushel for Mixed Barley.

[SEAL] CARL B. ROBBINS,
President.

[F. R. Doc. 40-3712; Filed, September 4, 1940; 11:40 a. m.]

[1940 Barley Circular Letter No. 1, Supplemental Instructions]

1940 BARLEY LOANS

AMENDMENTS

JUNE 27, 1940.

Paragraph 214.3 of 1940 C.C.C. Barley Form 1 (Instructions) is hereby deleted and the following paragraph 214.3 substituted in lieu thereof.

§ 214.3 *Amount of loans.* Loan values on barley except Mixed Barley (Class IV) shall be based for all classes on the

numerical grades as provided in the Official Grain Standards of the United States, in accordance with the following schedules:

(a) Barley stored on farms, or barley stored in an approved warehouse in all states in which warehouse-stored barley loans are available if the warehouse receipt representing the warehouse-stored barley has stamped or typed thereon the following legend signed by the warehouseman:

Handling and storage charges for the period ending June 30, 1941 on the barley represented by this warehouse receipt have been paid or otherwise provided for and lien for such charges will not be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of this warehouse receipt.

Address	Signed Warehouseman	Cents per bushel
#1 barley	-----	35
#2 barley	-----	34
#3 barley	-----	32
#4 barley	-----	29
#5 barley	-----	25

(b) Barley stored in approved warehouse in all states in which warehouse-stored barley loans are available where lien for charges has not been waived as provided above:

Address	Signed Warehouseman	Cents per bushel
#1 barley	-----	28
#2 barley	-----	27
#3 barley	-----	25
#4 barley	-----	22
#5 barley	-----	18

The above loan values are subject to a discount of 2¢ per bushel for Mixed Barley.

[SEAL] JOHN D. GOODLOE,
Vice President.

[F. R. Doc. 40-2736; Filed, September 4, 1940; 11:41 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER II—AGRICULTURAL MARKETING SERVICE

NOTICE UNDER PACKERS AND STOCKYARDS ACT¹

SEPTEMBER 4, 1940.

To SUNSET SALES YARD, INC., Greeley, Colo.:

Whereas, the Sunset Sales Yards, at Greeley, Colorado, was posted on July 30, 1937, as a stockyard subject to the provisions of the Packers and Stockyards Act, 1921; and

Whereas, it now appears that the Sunset Sales Yards is not being operated as a stockyard within the meaning of that term as defined in said Act:

Now, therefore, notice is hereby given that the Sunset Sales Yards, at Greeley, Colorado, no longer comes within the

foregoing definition and the provisions of Title III of said Act.

[SEAL] GROVER B. HILL,
Assistant Secretary of Agriculture.

[F. R. Doc. 40-3706; Filed, September 4, 1940; 11:39 a. m.]

TITLE 10—ARMY: WAR DEPARTMENT CHAPTER VIII—PROCUREMENT AND DISPOSAL OF EQUIPMENT AND SUPPLIES

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS¹

BID, PERFORMANCE, PAYMENT, AND PATENT INFRINGEMENT BONDS

§ 81.21 *Definitions*—(a) *Bid Bond.* A bond accompanying a bid and providing that

(1) The bid will not be withdrawn after the opening within the period specified in the bid or, if no shorter period is specified, within 60 days.

(2) A written contract with such bond or bonds as may be required will be executed within 10 days after the prescribed forms are presented for signature.

(b) *Performance bond.* A bond executed in connection with a contract and securing the performance and fulfillment of all the undertakings, covenants, terms, conditions, and agreements of the contract.

(c) *Payment bond.* A bond executed in connection with a contract and securing the payment of all persons supplying labor and material in the prosecution of the work provided for in the contract.

(d) *Annual bid bond.* A single bond securing all bids submitted to the designated agency during the fiscal year in lieu of a separate bid bond with each bid.

(e) *Annual performance bond.* A single bond securing all contracts executed with the designated agency during the fiscal year in lieu of a separate performance bond with each contract.

(f) *Patent infringement bond.* A bond executed in connection with a contract which contains a patent provision and securing the performance of that provision.

(g) *Contract for public work of the United States.* A contract for work, labor, or manufacture upon articles of property belonging to the United States, as well as a contract for supplies wherein it is provided that partial payment will be made for material and labor as the manufacture or construction of such supplies progresses, title to which vests in the United States upon the making of such partial payment, is a contract for "public work of the United States," although the contractor retains possession and remains responsible for the care

*May 31, 1941 for the States of California, Oklahoma and Texas.

¹ Modifies list posted stockyards 9 CFR 204.1.

¹ §§ 81.21-81.31 are superseded.

of the property so paid for until finally accepted by the United States. (20 Stat. 36, 22 Stat. 487, 49 Stat. 793; 5 U.S.C. 218, 40 U.S.C. 270a)† [Par. 1]

§ 81.21a *Statutory requirements.* The statutory requirements for performance and payment bonds in connection with contracts for construction, alteration, or repair of any public building or public work of the United States are as prescribed by act of August 24, 1935 (49 Stat. 793; 40 U.S.C. 270a).

(a) This law is applicable to contracts exceeding \$2,000 in amount; and has been held to include contracts for, but is not limited to

(1) Alteration or repair of vessels, boats, and aircraft.

(2) Construction of vessels, boats, and aircraft when title passes to the United States during the progress of the work as partial payments are made.

(3) Manufacture of uniforms from cloth owned by the Government.

(4) Performance of any work upon Government-owned personal property, provided that the work so performed consists of construction, alteration, or repair.

(5) Repair of Government-owned shoes.

(b) This law has been held to be not applicable to contracts for laundry service since contracts are not for "construction, alteration, or repair." See 38 Op. Atty. Gen. 418, 424. (49 Stat. 793; 40 U.S.C. 270a)† [Par. 2]

§ 81.21b *Options in lieu of surety or sureties on bonds.*—(a) *United States bonds or notes.* (1) Under the provisions of section 1029, act June 2, 1924 (43 Stat. 349), as amended by section 1126, act February 26, 1926 (44 Stat. 122); and section 7, act February 4, 1935 (49 Stat. 22); 6 U.S.C. 15, any person required to furnish a bond executed by himself as principal has, in lieu of sureties thereon, the option of depositing United States Liberty bonds or other United States bonds or notes in a sum equal at their par value to the penal amount of the bond.

(2) Treasury certificates of indebtedness are not acceptable.

(3) United States Savings Bonds may only be pledged in lieu of surety when the bond approving officer is the Secretary of the Treasury. Since in the case of War Department contracts the bond approving officer is not the Secretary of the Treasury, United States Savings Bonds are not acceptable in lieu of surety on those contracts.

(b) *Bidder's option; limitation; United States bonds or notes, certified checks or currency.* (1) Where security is required to insure the execution of the contract and of the bond for the faithful performance of the contract, the bidder, at his option, may furnish a bid bond, or, in lieu of such bid bond, may deposit a

certified check drawn to the order of the Treasurer of the United States or bonds or notes of the United States (at par value) as security in the amount required: *Provided*, That where not in conflict with law, the bidder may be limited to the option of furnishing a certified check drawn to the order of the Treasurer of the United States, currency, or bonds or notes of the United States, when the amount of the security required does not exceed \$1,000, notice of such requirement to be given in the invitation to bid.

(2) *Procedure.*—(i) *Certified checks or currency.* A certified check or currency received from a bidder will be held at the bidder's risk. If the contract cannot be awarded within 48 hours after the bids are opened the check or currency will be turned over by the purchasing officer to the local disbursing officer, who will receipt therefor and deposit the check or currency in a special deposit account. No check or currency of an unsuccessful bidder will be held by the contracting officer longer than 24 hours after award has been made.

The procedure prescribed in the subparagraph immediately above will be followed with reference to certified checks or currency received as a deposit to assure return of plans and specifications.

When a certified check or similar security is accepted by the contracting officer in lieu of surety or sureties on the bond, the security will be promptly turned over to the local disbursing officer and deposited by him in a special deposit account, and a certificate to this effect will be attached to the bond form. The amount of the security so deposited will be refunded to the contractor upon the completion of the terms of his contract.

(ii) The certified checks referred to in (i) above will be drawn to the order of the Treasurer of the United States. (Sec. 1029, 43 Stat. 349, sec. 1126, 44 Stat. 122, sec. 7, 49 Stat. 22; 6 U.S.C. 15)† [Par. 5]

§ 81.22 *Corporate sureties.*—(a) *Formal requirements.* In order to be acceptable to the War Department a corporate surety, except as hereinafter provided, must have obtained from the Secretary of the Treasury authority to do business under the act of August 13, 1894 (28 Stat. 279), as amended by the act of March 23, 1910 (36 Stat. 241; 6 U.S.C. 8). A list of the corporations approved by the Secretary of Treasury is published semiannually by the Treasury Department as Form No. 356 (Section of Surety Bonds), copies of which may be procured from the chief of the arm, service, or bureau concerned, who will make requisition for his requirements to The Judge Advocate General semiannually on March 15 and September 15. These corporations are acceptable as sureties upon bonds required by the War Department within the limitation of such approval: *Provided, however*, That any corporation authorized under the laws of the Philippine Islands

to act as surety on bonds may be accepted as surety on bonds executed in the Philippine Islands in an amount of penalty not exceeding 10 percent of the paid-up capital and surplus of such corporation, although it has not qualified before the Treasury Department as hereinbefore provided.

(b) *Qualifications of agents.* Surety companies must furnish promptly to the War Department, for file in the office of The Judge Advocate General—

(1) Powers of attorney authorizing their agents to execute bonds;

(2) Powers of attorney, or certified copies of resolutions of their boards of directors or trustees, authorizing their officers to execute bonds; and

(3) Certificates showing the revocation of such authority to execute bonds.

(c) *One or more companies.*—(1) *Supply contracts.* One or more companies may be accepted as surety upon any recognizance, stipulation, bond, or undertaking in connection with supply contracts under the War Department. On bonds covering supply contracts where the amount is greater than the underwriting limitation of a surety company, the latter may reinsure with a company on the acceptable list of surety companies having the required underwriting limitation. For form of performance bond, see § 81.26 (c) (1).

(2) *Construction and public work contracts.* One or more companies may be accepted as surety upon any recognizance, stipulation, bond, or undertaking in connection with contracts for the construction of any building or the prosecution or completion of any public work or for the repair of any public building or public work under the War Department, but in all cases of more than one surety, the sureties must execute such obligation jointly and severally. In the event of two or more corporate sureties, where it is desired to limit the obligation and liability of each surety, the limit of liability of each surety shall be set forth in the bond as a definite and specified sum, such amount to be in all cases within the limitation of its qualified power. Re-insurance agreements will not be accepted on contracts for the construction, alteration, or repair of any public buildings or public work of the United States. For forms of performance bond and payment bond in which it is desired to limit the liability of the several corporate sureties, see §§ 81.26 (c) (2) and 81.28 (d) (2), respectively. (Secs. 1, 2, 28 Stat. 279; 6 U.S.C. 6, 7)† [Par. 6]

§ 81.23 *Individual sureties.*—(a) *Number of.* If individual sureties are furnished, there shall be at least two responsible individuals.

(b) *Measure of liability.* The liability of each surety shall extend to the entire penal amount of the bond, except that when more than two sureties are furnished, the Secretary of War may authorize special provisions in respect of liability.

†The source of §§ 81.21 to 81.31, inclusive, is Army Regulations 5-220, Aug. 7, 1940.

(c) *Justification.* (1) Individual sureties will each justify in a sum not less than the penal amount of the bond.

(2) In special cases two or more bonds may be accepted to cover one contract provided there are two different individual sureties on each bond.

(d) *Citizenship.* (1) Except as prescribed in (2) below, individual sureties will be citizens of the United States.

(2) Sureties on bonds executed in foreign countries, the Canal Zone, the Philippine Islands, Puerto Rico, Hawaii, Alaska, or any possession of the United States, for the performance of contracts entered into in these places, need not be citizens of the United States, but sureties other than citizens of the United States must be domiciled in the place where the contract is to be performed.

(e) *Firm or corporation as principal obligor.* (1) A firm as such will not be accepted as a surety, nor a partner for copartners or for a firm of which he is a member.

(2) When a corporation executes a bond as principal, any stockholder of the corporation is a competent surety on the bond: *Provided*, He is worth the amount for which he justified, over and above the value of his holdings in the corporation: *And provided further*, That that fact is expressly stated in his affidavit of justification. (20 Stat. 36, 22 Stat. 487; 5 U.S.C. 218)† [Par. 7]

§ 81.24 *Bid bonds*—(a) *When required.* At the discretion of the chief of arm, service, or bureau concerned, security with the bid may be required or waived—

(1) In special cases, or

(2) By general instructions issued to purchasing officers, but will be required or waived alike to all bidders.

(b) *Form used.* Standard Form No. 24 (Standard Government Form of Bid Bond (construction or supply)) will be utilized when a bid bond is furnished and all instructions thereon will be complied with.

(c) *Amount of penalty; by whom fixed.* The amount of the penalty in the bid bond will be fixed by the contracting officer, and will not be less than one-tenth of the full amount of the consideration of the proposed contract, nor more than the full amount thereof. (20 Stat. 36, 22 Stat. 487; 5 U.S.C. 218)† [Par. 8]

§ 81.25 *Annual bid bond*—(a) *When authorized.* (1) Bidders may file an annual bid bond to cover all bids submitted to any particular purchasing officer during the fiscal year.

(2) When authorized by a chief of arm, service, or bureau, a bidder may file an annual bid bond to cover all bids submitted to all purchasing officers of that arm, service, or bureau serving within the continental limits of the United States during the fiscal year.

(3) When authorized by the chief representative of an arm, service, or bureau in an overseas department, a bidder may

file an annual bid bond to cover all bids submitted to purchasing officers of that arm, service, or bureau within that department during the fiscal year.

(b) *Form used.* Standard Form No. 34 (Standard Government Form of Annual Bid Bond (supplies)) will be utilized and all instructions thereon will be complied with. (R.S. 161; 5 U.S.C. 22) [par. 9]

§ 81.26 *Performance bonds*—(a) *When required*—(1) *Supply contracts.* At the discretion of the chief of arm, service or bureau concerned, performance bonds may be required or waived in special cases, or by general instructions issued to contracting officers, except that such bond may not be waived when it has been stated in an invitation for bids that a performance bond will be required. A performance bond may not be required unless it has been stated in the invitation for bids that it will be required. See section 81.10 (a) (6).

(2) *Construction, alteration, or repair of public buildings and public work contracts.* (i) When the amount involved in the contract exceeds \$2,000, a performance bond will be required, except for so much of the work as is to be performed in a foreign country if it is found that it is impracticable for the contractor to furnish such bond (49 Stat. 793; 40 U.S.C. 270a).

(ii) When the amount involved in the contract is \$2,000 or less, a performance bond may be required or waived as stated in (1) above.

(iii) See § 81.21a.

(b) *Sureties on bid bonds acceptable on performance and payment bonds.* Sureties on a bid bond are acceptable as sureties on the performance bond and payment bond of the same person as a contractor, provided they are able to justify as required.

(c) *Forms used*—(1) *With individual sureties or one corporate surety on bonds covering either supply, construction, alteration, repair of public buildings or public work contracts.* Standard Form No. 25 (Standard Government Form of Performance Bond (construction or supply)) will be utilized, and all instructions thereon will be complied with.

(2) *With two or more corporate sureties covering construction, alteration, repair of public buildings or public work contracts where it is desired to limit the liability of the several corporate sureties.* The following is a form of bond for use in formal contracts with the United States for the construction, alteration, or repair of any public building or public work:

BOND

Know all men by these presents: That we, the A Company, a corporation organized and existing under the laws of the State of _____, as principal, and the B Company, an Ohio Corporation, the C Company, a New York corporation, and the D Company, a New Jersey corporation, as surety, are held and firmly bound unto the United States of America, hereinafter called the Government, in the penal sum of three hun-

dred thousand dollars (\$300,000) lawful money of the United States of America, as follows:

The principal and the B Company, as surety, jointly and severally in the sum of one hundred thousand dollars and no more, the principal and the C Company, as surety, jointly and severally in the sum of one hundred thousand dollars and no more, the principal and the D Company, as surety, jointly and severally in the sum of one hundred thousand dollars and no more, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents, as hereinabove provided.

The condition of this obligation is such that whereas the principal entered into a certain contract, hereto attached, with the Government, dated _____, 19____, for

The obligors herein expressly agree that, for the purpose of allowing a joint action against any or all of them, and for that purpose only, this bond shall be treated as the "joint and several" as well as the "several" obligation of each of the obligors.

Now, therefore, if the principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Government, with or without notice to the surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation to be void; otherwise to remain in full force and in virtue.

In witness whereof, the above-bounden parties have executed this instrument under their several seals this _____ day of _____, 19____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

(Signature of principal)

(Signature of sureties)

In presence of

(Signatures of witnesses)

(d) *Amount of penalty; by whom fixed.* The contracting officer will fix the penalty in a performance bond in such amount as he shall deem adequate for the protection of the United States, and in no case less than one-tenth of the full amount of the consideration of the contract. (20 Stat. 36, 22 Stat. 487, 49 Stat. 793; 5 U.S.C. 218, 40 U.S.C. 270a)† [Par. 10]

§ 81.27 *Annual performance bond*—(a) *When authorized.* Contractors may file an annual performance bond—

(1) To cover all contracts entered into with any particular contracting officer during the fiscal year.

(2) When authorized by a chief of arm, service, or bureau to cover all contracts entered into with contracting officers of that arm, service, or bureau within the continental limits of the United States during the fiscal year.

(3) When authorized by the chief representative of arm, service, or bureau in an overseas department, to cover all contracts entered into with contracting officers of that arm, service, or bureau within that department during the fiscal year.

(b) *Form used.* Standard Form No. 35 (Standard Government Form of Annual Performance Bond (supplies)) will be utilized and all instructions thereon will be complied with.

(c) *Record of obligations.* The officer having custody of the retained copy of such a bond will record all obligations against the bond and will require the contractor to post additional bonds when the obligations exceed the amount of the bond. (R.S. 161; 5 U.S.C. 22)† [Par. 11]

§ 81.28 *Payment bonds.* (a) A payment bond will be required before any contract for the construction, alteration, or repair of any public building or public work of the United States is awarded when the amount involved in the project exceeds \$2,000, except for so much of the work as is to be performed in a foreign country if it is found that it is impracticable for the contractor to furnish such bond. See § 81.21a.

(b) *Amount of penalty.* Whenever the total amount payable by the terms of the contract shall be not more than \$1,000,000, the payment bond shall be in a sum of one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$1,000,000 and not more than \$5,000,000, the payment bond shall be in a sum of 40 per centum of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$5,000,000, the payment bond shall be in the sum of \$2,500,000.

(c) *Sureties on bid bonds and performance bonds acceptable on payment bonds.* See § 81.26 (b).

(d) *Forms used—(1) With individual sureties or one corporate surety.* Standard Form No. 25-A (Payment Bond (construction)) will be utilized, and all instructions thereon will be complied with.

(2) *With two or more corporate sureties where it is desired to limit the liability of the several corporate sureties.* The form specified in § 61.26 (c) (2) except the clause beginning "Now, therefore", which should be replaced by the following clause:

Now, therefore, if the principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the sureties being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

(e) *Certified copies of payment bond and contract; from whom secured.* Certified copies of payment bond and the contract so covered may be secured from the Comptroller General by any person making application therefor together with an affidavit that he has supplied labor or materials in connection with the work under such contract for which payment has not been made, or that he is being sued on such payment bond. (49 Stat. 793, 794; 40 U.S.C. 270a, 270c)† [Par. 12]

§ 81.29 *Patent infringement bonds.* When, in accordance with AR 5-140 (§§ 81.10 and 81.11), the invitation for bids requires a patent infringement bond, such bond will be in the form prescribed in advance by the chief of the supply arm, service, or bureau concerned and in an amount which the contracting officer considers sufficient for the protection of the Government provided that, where the invitation for bids is silent as to a patent infringement bond, no patent infringement bond may be required by the contracting officer as a condition to the award. The form of "Affidavit By Individual Surety" will conform to that on Standard Form No. 25 (Revised), approved by the Secretary of the Treasury, September 16, 1935. (R.S. 161; 5 U.S.C. 22)† [Par. 13]

§ 81.30 *Bonds, executed by receivers, trustees, administrators, or executors.* (a) Receivers, trustees, administrators, and executors are officers of the court appointing them and their powers as such are limited. When a bond executed by a receiver, trustee, administrator, or executor is submitted, in addition to the court order showing his authority for the execution of the bond, the following method of preparing and executing the bond will be followed. The obligation should read: "I (we) John Doe (and _____) as [(executor(s)) (administrator(s)) of the estate of _____] (trustee(s) of _____) (receiver(s) of _____)." The execution should be prepared and signed by the representative in the blank spaces for individual principals in the following form: "John Doe (and _____) as [(executor(s)) (administrator(s)) of the estate of _____] (trustee(s) of _____) (receiver(s) of _____)." In the case of a bond executed by the receiver of a corporation, the corporate seal should not be affixed as the bond is not the bond of the corporation but the bond of the individual as receiver of the corporation.

(b) Bonds executed by a receiver or trustee, which may extend beyond the term of his appointment, and bonds executed by administrator or executors, will in general not be accepted except when the court has by specific decree authorized the execution of the kind of bond submitted by the receiver, trustee, administrator, or executor, or has granted authority to execute such a bond by name

in the court order appointing such officer, in the event of which a duly authenticated copy of such order must be attached to the bond. (R.S. 161; 5 U.S.C. 22)† [Par. 14]

§ 81.31 *Renewal.* (a) In case of financial embarrassment, failure, or other disqualifying cause on the part of the surety to a bond, the Assistant Secretary of War will require the bond to be renewed to his satisfaction, upon notification to the principal.

(b) The Secretary of the Treasury is empowered to require the principal of any corporate surety to give additional bond at any time when he determines any such corporate surety to be no longer sufficient security. (Sec. 4, 28 Stat. 279, 36 Stat. 241; 6 U.S.C. 9)† [Par. 15]

[SEAL]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40-3690; Filed, September 4, 1940; 11:16 a. m.]

TITLE 21—FOOD AND DRUGS

CHAPTER I—FOOD AND DRUG ADMINISTRATION

[Docket No. FDC-10-A]

REGULATION FIXING AND ESTABLISHING DEFINITIONS AND STANDARDS OF IDENTITY FOR PRESERVES, JAMS

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE ON THE BASIS OF WHICH REGULATIONS MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR FRUIT PRESERVE (FRUIT JAM) FOODS

Upon consideration of the evidence of record in the above-entitled hearing, and of the Presiding Officer's report and objections thereto, findings of fact, upon the basis of which definitions and standards of identity are hereinafter fixed and established for preserves, jams, are hereby made as follows:

Finding 1

A preserve or jam is the viscous or semisolid food obtained by concentrating a mixture of fruit or vegetable or both, and saccharine ingredients in which the fruit or vegetable ingredient or both, as the case may be, is not less than 45 parts and the saccharine ingredient not more than 55 parts by weight.

Finding 2

In commercial practice the terms "preserve" and "jam", when used to identify a food product, are sometimes distinguished on the basis of the character of the fruit ingredient in such food, the product containing the whole fruit or large pieces thereof being known as "preserve" and the product containing crushed or disintegrated fruit being

called "jam", but such a distinction is not made uniformly nor is there a definite line of demarcation applicable to all fruits, wherefore the terms are generally used synonymously.

Finding 3

The following is a list of fruits, each of which (except apple) or a combination of any two or more (including apple) is used as the fruit ingredient in preserves for which definitions and standards of identity are herein prescribed: Apple, apricot, blackberry (other than dewberry), black raspberry, blueberry, boysenberry, cherry, crabapple, cranberry, damson or damson plum, dewberry (other than boysenberry, loganberry, and youngberry), elderberry, fig, gooseberry, grape, grapefruit, greengage or greengage plum, guava, huckleberry, loganberry, nectarine, orange, peach, pear, pineapple, plum (other than damson and greengage plum), quince, raspberry or red raspberry, red currant or currant (other than black currant), strawberry, tangerine, and youngberry.

Finding 4

Botanically, blackberries are divided into two general classes of varieties, the first class being those which grow with erect canes and are commonly known as blackberries, and the second being those which grow with trailing canes and as a class are sometimes referred to as dewberries. Three varieties of the second class are commonly known as boysenberries, loganberries, and youngberries, and the other varieties of that class are commonly known as dewberries.

Finding 5

The fruit used as the ingredient in the manufacture of fruit preserves is the properly prepared mature fruit which may be fresh, frozen, or canned.

Finding 6

Properly prepared mature tomato or yellow tomato or rhubarb or any combination of two or all of these is the vegetable ingredient used in a preserve made from a mixture of vegetable and sugar ingredients.

Finding 7

The weight of the fruit prepared for use as an ingredient in preserves is its net weight exclusive of all ingredients used in the canning or freezing of such fruits when canned or frozen fruits are used, and, when normal commercial practice requires removal of portions of such fruit in preparing it for such use, exclusive also of the weight of all portions normally removed and, when apricots, or cherries, or grapes, or nectarines, or peaches, or any of the varieties of plums are so used, exclusive also of the weight of the pits or seeds of such fruits whether removed or not.

Finding 8

Any one of the following may be used as the saccharine ingredient in a preserve: (1) Sugar; (2) invert sugar sirup; (3) any combination of sugar and invert sugar sirup; (4) any combination of sugar, invert sugar sirup and corn sugar or dextrose, or of any two of these; (5) any combination of corn sirup with sugar or invert sugar sirup or dextrose or any two or all of these, in which the weight of corn sirup solids is not more than one-half the weight of the combination; (6) honey; and (7) any combination of honey with sugar or invert sugar sirup or dextrose or any two or all of these, in which the weight of honey solids is not less than two-fifths of the weight of the solids of such combination.

Finding 9

The weight of a saccharine ingredient is the weight of the solids of such ingredient.

Finding 10

Sugar is the refined product in crystallized form obtained from sugar cane or sugar beet, chemically known as sucrose.

Finding 11

When sugar in solution is subjected to certain treatments with the enzyme invertase or certain acids, it is wholly or partly converted into levulose and dextrose, a chemical reaction commonly described by chemists as the inversion of sugar.

Finding 12

Sugar is partly inverted in the process of manufacture of a preserve.

Finding 13

An invert sugar sirup is a wholly or partly inverted refined or partly refined sugar solution.

Finding 14

Invert sugar sirup used as a saccharine ingredient in preserves is manufactured (1) by treating a solution of sugar with the enzyme invertase, or with hydrochloric or sulphuric acid which is neutralized with sodium carbonate when the treatment is completed; or (2) by treating a solution of partly refined sugar with invertase, or with hydrochloric or sulphuric acid which is neutralized with sodium carbonate when the treatment is completed, and by removing color and flavor, other than sweetness, from such solution.

Finding 15

All sugars contain ash, that is, mineral substances which remain when the organic substances of sugar are burned.

Finding 16

The amount of ash contained in sugar depends, in part, on the climatic and soil conditions where the sugarcane or sugar beet is grown so that the ash content of

refined granulated sugars may vary from about .01 percent to about .04 percent.

Finding 17

The ash content of invert sugar sirup is increased in the process of inversion by reason of the addition thereto of certain mineral matters contained in the water in which the sugar is dissolved and, when the inverting reagent is an acid, by reason of the presence of the mineral substance, usually common salt, resulting when the acid reagent is neutralized.

Finding 18

Subject to the variations in the quantity of ash present due to the causes stated, the quantity of ash present in invert sugar sirup is indicative of the degree of refinement.

Finding 19

An invert sugar sirup which is insufficiently refined and which has an abnormally high ash content has a characteristic flavor, odor, and color which render it unsuitable for use as a saccharine ingredient in preserves.

Finding 20

An invert sugar sirup which is sufficiently refined to be suitable for use as a saccharine ingredient in preserves contains not more than 0.3 percent ash and is colorless, odorless, and flavorless except for sweetness.

Finding 21

Corn sugar is the refined anhydrous or hydrated product obtained by complete hydrolysis of cornstarch; dextrose is the refined anhydrous or hydrated product obtained by complete hydrolysis of any starch.

Finding 22

By reason of its low solubility, corn sugar or dextrose can only be used in combination with sugar or other saccharine substances as the saccharine ingredient in a preserve and, for the same reason, the quantity which may be so used is limited to an amount which will remain in solution.

Finding 23

Corn sirup is the product obtained by partial hydrolysis of cornstarch and is a concentrated aqueous solution of dextrose and maltose, which are members of the class of substances chemically known as sugars, and the non-sugar (or pro-sugar) substance dextrin.

Finding 24

Dextrin imparts a characteristic taste and texture to corn sirup and to preserve in which corn sirup is used in substantial quantity.

Finding 25

Corn sirup costs less than sugar and dextrose, and preserves in which it is used in substantial quantities sell at lower

prices than preserves made with sugar or sugar and dextrose.

Finding 26

The maximum quantity of corn sirup which may be used as part of the saccharine ingredient to make an acceptable preserve varies with the kind of fruit used, but in no case is the quantity such that the corn sirup solids is in excess of one-half, by weight, of the solids of the total saccharine ingredient.

Finding 27

When used in substantial quantity honey imparts a characteristic honey flavor to preserve.

Finding 28

The minimum quantity of honey which may be used as part of the saccharine ingredient to impart a characteristic honey flavor to preserve is such that the weight of honey solids is not less than two-fifths the weight of the solids of such saccharine ingredient.

Finding 29

One of the factors on the basis of which a product is identified as a preserve is its consistency.

Finding 30

The consistency of preserve is obtained by concentrating, by application of heat, the mixture of its fruit or vegetable and saccharine ingredients and such other optional ingredients as may be present; the degree of concentration depends on the fruit or vegetable used and is measurable by the percentage of soluble solids contained in the finished preserve.

Finding 31

When the fruit or vegetable ingredient of preserve is blackberry (other than dewberry), or black raspberry, or blueberry, or boysenberry, or cherry, or crabapple, or dewberry (other than boysenberry, loganberry and youngberry), or elderberry, or grape, or grapefruit, or huckleberry, or loganberry, or orange, or pineapple, or raspberry, or strawberry, or tangerine, or youngberry, or rhubarb, or tomato, or yellow tomato, or any combination of two or more of these, the soluble solids of the finished preserve is not less than 68 percent by weight. When the fruit or vegetable ingredient of preserve is any other fruit named in Finding 3 hereof, singly or in combination with each other or in combination with one or more of the fruits or vegetables named in this Finding, the soluble solids of the finished preserve is not less than 65 percent by weight.

Finding 32

The soluble solids of a preserve can be determined by the method prescribed on page 320 under the heading "Soluble Solids in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Tentative" in the publication entitled "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chem-

ists", Fourth Edition, except that no correction is made for water-insoluble solids; such publication is well known to and commonly used by food chemists, and such method is generally accepted by food chemists as a proper method whereby the soluble solids of preserves can be determined with a reasonable degree of accuracy.

Finding 33

Pectin and acid, substances naturally present in all preserving fruits and vegetables, are the substances which give a preserve its jellying properties.

Finding 34

Some such fruits and vegetables contain larger quantities of pectin and acid than others and frequently the quantity of pectin and acid varies in the same kind of fruit or vegetable, such variances being due to several factors, including the degree of ripeness, the variety, the locality where grown, and other factors.

Finding 35

Frozen fruit contains somewhat less pectin and acid than such fruit contained in its fresh state.

Finding 36

A manufacturer of preserves cannot, by normal, good commercial practice, maintain a sufficiently high content of acid and pectin for preserve manufacture by selecting fruits or vegetables on the basis of their variety or degree of ripeness, or on any other basis which is practicable.

Finding 37

When the fruit or vegetable ingredient in preserves contains substantially less pectin or acid, or both, than the average quantities of pectin and acid in preserving fruits generally, a proper consistency of the finished product cannot be obtained.

Finding 38

When the fruit or vegetable ingredient of a preserve is deficient in pectin or acid, or both, the desirable consistency of the finished preserve is obtained by adding a sufficient quantity of pectin or acid, or both, to compensate for such deficiency.

Finding 39

Acid deficiency of a fruit or vegetable ingredient is supplied by adding a suitable quantity of a vinegar, or lemon juice, or lime juice, or citric acid, or lactic acid, or malic acid, or tartaric acid, or any combination of two or more of these.

Finding 40

By using abnormally large quantities of pectin or acid, or both, a substantial part of the normal fruit content of preserve can be replaced by water and excessive saccharine ingredients; such a product, through its consistency and appearance, purports to be preserve and

such use of pectin and acid is regarded as deceptive.

Finding 41

When the fruit content and the degree of concentration of preserve are fixed at proper points, any inducement for adding pectin or acid, or both, in quantities greater than are required to supply the natural deficiency of those substances, is eliminated.

Finding 42

When preserve is manufactured from some fruits in large batches, the rate of set must be retarded to prevent lumpiness and permit proper filling of the containers; this is accomplished by adding not more than three ounces of sodium citrate or sodium potassium tartrate, or both (commonly called "buffer salts"), to each 100 pounds of the saccharine ingredient in such batch.

Finding 43

Preserves may be, and sometimes are, manufactured with any mixture of two, three, four, or five fruits or vegetables.

Finding 44

Apple is never used as the sole fruit ingredient in a preserve.

Finding 45

Apple is a relatively inexpensive fruit and, when used with one or more other fruits or vegetables in making a preserve, it is added as a filler to reduce the cost of such preserve.

Finding 46

When apple is one of a mixture of two, three, four, or five fruits or fruits and vegetables used in making preserve, the weight of apple is not more than 50 percent of the weight of such mixture.

Finding 47

In mixtures of two, three, four, or five fruits or vegetables used in making preserve, the weight of each is not less than one-fifth of the total weight of such mixture, except that the weight of pineapple may be not less than one-tenth of the weight of such mixture.

Finding 48

The name of a preserve in which a single fruit or vegetable is used is the name of such fruit or vegetable preceded or followed by "preserve" or "jam".

Finding 49

The name of a preserve in which a mixture of two, three, four, or five fruits or vegetables is used is "mixed fruit preserve" or "mixed fruit jam", or the names of such fruits and vegetables in the order of predominance by weight, preceded or followed by the word "preserve" or "jam".

Finding 50

Spices are sometimes added to preserves.

Finding 51

When a preserve is packed in large containers for sale to institutions, res-

taurants, hotels, etc., the chemical sodium benzoate is sometimes added as a preservative.

Conclusion 1

There is no evidence of record upon the basis of which a definition and standard of identity can be fixed and established for black currant preserve.

Conclusion 2

On the basis of the foregoing facts found, and pursuant to and by virtue of the provisions of sections 401 and 701 (e) of the Federal Food, Drug, and Cosmetic Act [secs. 401, 701 (e), 52 Stat. 1046, 1055; 21 U.S.C., Sup. V, 341, 371 (e)], and of the Reorganization Act of 1939 [53 Stat. 561 ff.], and Reorganization Plan No. IV [5 F.R. 2421], the following regulation fixing and establishing definitions and standards of identity for preserves, jams, is hereby promulgated:

§ 29.000 *Preserves, jams—identity; label statement of optional ingredients.* (a) The preserves or jams for which definitions and standards of identity are prescribed by this section are the viscous or semi-solid foods each of which is made from a mixture composed of not less than 45 parts by weight (see subsection (c)) of one of the fruit ingredients specified in subsection (b) to each 55 parts by weight (see subsection (e) (1)) of one of the optional saccharine ingredients specified in subsection (d). Such mixture may also contain one or more of the following optional ingredients:

(1) Spice.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, or any combination of two or more of these, in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit ingredient.

(3) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit ingredient.

(4) Sodium citrate, sodium potassium tartrate, or any combination of these, in a quantity the proportion of which is not more than 3 ounces avoirdupois to each 100 pounds of the saccharine ingredient used.

(5) Sodium benzoate or benzoic acid or any combination of these, in a quantity reasonably necessary as a preservative.

Such mixture, with or without added water, is concentrated by heat to such point that the soluble solids content of the finished preserve is not less than 68 percent if the fruit ingredient is specified in group I of subsection (b), and not less than 65 percent if the fruit ingredient is specified in group II of subsection (b). The soluble solids content is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, page

320, under "Soluble Solids in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Tentative", except that no correction is made for water-insoluble solids.

(b) The fruit ingredients referred to in subsection (a) are the following mature, properly prepared fruits which are fresh, frozen, and/or canned:

Group I

Blackberry (other than dewberry).
Black Raspberry.
Blueberry.
Boysenberry.
Cherry.
Crabapple.
Dewberry (other than boysenberry, loganberry, and youngberry).
Elderberry.
Grape.
Grapefruit.
Huckleberry.
Loganberry.
Orange.
Pineapple.
Raspberry, Red Raspberry.
Rhubarb.
Strawberry.
Tangerine.
Tomato.
Yellow Tomato.
Youngberry.

Any combination of two, three, four, or five of such fruits in which the weight of each is not less than one-fifth of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

Group II

Apricot.
Cranberry.
Damson, Damson Plum.
Fig.
Gooseberry.
Greengage, Greengage Plum.
Guava.
Nectarine.
Peach.
Pear.
Plum (other than greengage plum and damson plum).
Quince.
Red Currant, Currant (other than black currant).

Any combination of two, three, four, or five of such fruits, or one or more of such fruits with one or more of the individual fruits specified in group I, in which the weight of each is not less than one-fifth of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

Any combination of apple and one, two, three, or four of the individual fruits specified in this group or group I, in which the weight of each is not less than one-fifth, and the weight of apple is not more than one-half, of the weight of the combination; except that the weight of pineapple may be

not less than one-tenth of the weight of the combination.

In any combination of two, three, four, or five fruits, each such fruit is an optional ingredient. For the purposes of this section, the word "fruit" includes the vegetables specified in this subsection.

(c) Any requirement of this section with respect to the weight of any fruit, combination of fruits, or fruit ingredient means—

(1) The weight of fruit exclusive of the weight of any sugar, water, or other substance added for any processing or packing or canning, or otherwise added to such fruit;

(2) In the case of fruit prepared by the removal, in whole or in part, of pits, seeds, skins, cores, or other parts, the weight of such fruit exclusive of the weight of all such substances removed therefrom; and

(3) In the cases of apricots, cherries, grapes, nectarines, peaches, and all varieties of plums, whether or not pits and seeds are removed therefrom, the weight of such fruit exclusive of the weight of such pits and seeds.

(d) The optional saccharine ingredients referred to in subsection (a) are—

(1) Sugar.

(2) Invert sugar sirup.

(3) Any combination composed of optional saccharine ingredients (1) and (2).

(4) Any combination composed of corn sugar or dextrose and optional saccharine ingredient (1), (2), or (3).

(5) Any combination composed of corn sirup and optional saccharine ingredient (1), (2), (3), or (4), in which the weight of the solids of each component is not less than one-tenth of the weight of the solids of each combination and the weight of corn sirup solids is not more than one-half of the weight of the solids of such combination.

(6) Honey.

(7) Any combination composed of honey and optional saccharine ingredient (1), (2), or (3), in which the weight of the solids of each component except honey is not less than one-tenth of the weight of the solids of such combination and the weight of honey solids is not less than two-fifths of the weight of the solids of such combination.

(e) For the purposes of this section—

(1) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(2) The term "sugar" means refined sugar (sucrose).

(3) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color

and flavor other than sweetness are removed.

(4) The term "corn sugar" means refined anhydrous or hydrated dextrose made from cornstarch.

(5) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.

(f) The name of each preserve or jam for which a definition and standard of identity is prescribed by this section is as follows:

(1) If the fruit ingredient is a single fruit, the name is "Preserve" or "Jam," preceded or followed by the name or synonym whereby such fruit is designated in subsection (b).

(2) If the fruit ingredient is a combination of two, three, four, or five fruits, the name is "Preserve" or "Jam," preceded or followed by the words "Mixed Fruit" or by the names or synonyms whereby such fruits are designated in subsection (b), in the order of predominance, if any, of the weights of such fruits in the combination.

(g) (1) When optional ingredient (1) is used, the label shall bear the word "Spiced" or the statement "Spice Added" or "With Added Spice"; but in lieu of the word "Spice" in such statements the common name of the spice may be used.

(2) When optional ingredient (5) is used, the label shall bear the words "Sodium Benzoate" or "Benzoic Acid," or "Sodium Benzoate and Benzoic Acid," as the case may be, followed by the words "Added as Preservative."

(3) When optional saccharine ingredient (5) or (7) is present, the label shall bear the names of the components of the combination whereby such components are designated in subsection (d), in the order of predominance, if any, of the weights of such components in the combination. Such names shall be preceded by the words "Prepared with".

(4) When optional saccharine ingredient (6) is used, the label shall bear the statement "Prepared with Honey".

(5) When the fruit ingredient is a combination of two, three, four, or five fruits and the preserve is designated on its label by the name "Preserve" or "Jam" preceded or followed by the words "Mixed Fruit", the label shall bear the names or synonyms whereby such fruits are designated in subsection (b), in the order of predominance, if any, of the weights of such fruits in the combination.

(6) Wherever the name specified in subsection (f) appears on the label of the preserve so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such preserve may so intervene.

It is ordered, That the foregoing regulation become effective on the ninetieth day after this order is published in the FEDERAL REGISTER.

Dated, Washington, D. C., August 31, 1940.

PAUL V. McNUTT,
Federal Security Administrator.

[F. R. Doc. 40-3687; Filed, September 4, 1940;
10:54 a. m.]

[Docket No. FDC-10-B]

REGULATIONS FIXING AND ESTABLISHING DEFINITIONS AND STANDARDS OF IDENTITY FOR JELLIES

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE ON THE BASIS OF WHICH REGULATIONS MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR FRUIT JELLY FOODS

Upon consideration of the evidence of record in the above-entitled hearing,¹ and of the Presiding Officer's report and objections thereto, findings of fact, upon the basis of which definitions and standards of identity are hereinafter fixed and established for jellies, are hereby made as follows:

Finding 1

A jelly is the semi-solid food of gelatinous consistency obtained by concentrating, by the application of heat, a mixture of fruit juice or diluted or concentrated fruit juice and saccharine ingredients, in which the fruit juice is not less than 45 parts by weight and the saccharine ingredients not more than 55 parts by weight.

Finding 2

The fruit juice ingredient in a jelly is the filtered or strained liquid extracted from fresh, frozen, or canned fruits, with or without the application of heat and with or without added water.

Finding 3

Sometimes a mixture containing two, three, four, or five fruit juice ingredients is used in making jelly; the weight of each such fruit juice is not less than one-fifth of the weight of the total of such fruit juices.

Finding 4

When the fruit juice ingredient is required to be shipped or stored for future use, it is good commercial practice to concentrate it by application of heat. It may also be concentrated by freezing.

Finding 5

In any fruit juice product prepared for use as the fruit juice ingredient of a jelly, the weight of the original fruit juice is to the weight of such product as the percentage of the soluble fruit solids in

such product is to the percentage of the soluble fruit solids in such original fruit juice.

Finding 6

In using the ratio set forth in Finding 5 for computing the weight of fruit juice in a fruit juice ingredient, it is customary to assume that the percentage of soluble fruit solids in the juice of any given kind of fruit is the average percentage of soluble fruit solids of the juice of that kind of fruit. Computations based on such assumption are reasonably accurate and are the most practicable method of arriving at the weight of fruit juice used in making jelly.

Finding 7

The fruits from which the fruit juice ingredients of the jellies, for which definitions and standards of identity are herein prescribed, are obtained; the percentages by weight of the average soluble fruit solids of such respective fruits; and their respective factors, which are the reciprocals of such percentages multiplied by 100 and rounded out to whole or half numbers, are as follows:

Name of fruit:	Average Percentage of Soluble Fruit Solids	Factor
Apple	13.7	7.5
Apricot	14.4	7.0
Blackberry (other than dewberry)	10.0	10.0
Black Raspberry	11.2	9.0
Cherry	13.9	7.0
Crabapple	15.4	6.5
Cranberry	10.6	9.5
Damson, Damson plum	14.8	7.0
Dewberry (other than boysenberry, loganberry, and youngberry)	10.0	10.0
Fig	19.0	5.5
Gooseberry	8.2	12.0
Grape	14.1	7.0
Grapefruit	9.1	11.0
Greengage, Greengage Plum	14.8	7.0
Guava	7.6	13.0
Loganberry	10.6	9.5
Orange	12.7	8.0
Peach	11.8	8.5
Pineapple	14.6	7.0
Plum (other than damson, greengage, and prune)	14.8	7.0
Pomegranate	17.6	5.5
Quince	13.2	7.5
Raspberry, Red Raspberry	10.5	9.5
Red Currant, Currant (other than black currant)	10.6	9.5
Strawberry	8.0	12.5
Youngberry	10.0	10.0

Finding 8

The following is a convenient and reasonably accurate method for determining the weight of a fruit juice ingredient, which is based on Findings 5, 6, and 7:

Determine the percent of soluble solids in the prepared fruit juice ingredients; multiply the percent so found by the weight of such prepared fruit juice ingredient; divide the result by 100; subtract from the quotient the weight of any added sugar or other added solids; and multiply the remainder by the factor for the fruit from which the fruit juice was obtained. The result is the weight

¹ 4 F.R. 3585.

of the fruit juice present in such prepared fruit juice ingredient.

Finding 9

Botanically, blackberries are divided into two general classes of varieties, the first class being those which grow with erect canes and are commonly known as blackberries, and the second being those which grow with trailing canes and as a class are sometimes referred to as dewberries. Three varieties of the second class are commonly known as boysenberries, loganberries, and youngberries, and other varieties of that class are commonly known as dewberries.

Finding 10

Any one of the following may be used as the saccharine ingredient in a jelly: (1) Sugar; (2) invert sugar sirup; (3) any combination of (1) and (2); (4) any combination of corn sugar or dextrose and (1), (2), or (3); (5) any combination of corn sirup and (1), (2), (3), or (4), in which the weight of corn sirup is not more than one-half of the weight of such combination; (6) honey; and (7) any combination of honey and (1), (2), or (3), in which the weight of honey is not less than two-fifths of the weight of the combination.

Finding 11

The weight of a saccharine ingredient is the weight of its solids.

Finding 12

Sugar is the refined product in crystallized form obtained from sugar cane or sugar beet, chemically known as sucrose.

Finding 13

When sugar in solution is subjected to certain treatment with the enzyme invertase or with certain acids, it is wholly or partly converted into levulose and dextrose, a chemical reaction commonly described by chemists as the inversion of sugar.

Finding 14

Sugar is partly inverted in the process of manufacture of a jelly.

Finding 15

An invert sugar sirup is a wholly or partly inverted refined or partly refined sugar solution.

Finding 16

Invert sugar sirup used as a saccharine ingredient in jellies is manufactured (1) by treating a solution of sugar with the enzyme invertase or with hydrochloric or sulphuric acid which is neutralized with sodium carbonate when the treatment is completed; or (2) by treating a solution of partly refined sugar with invertase, or with hydrochloric or sulphuric acid which is neutralized with sodium carbonate when the treatment is completed, and by removing color and flavor, other than sweetness, from such solution.

Finding 17

All commercially produced sugars contain ash, that is, the mineral substances which remain when the organic substances of sugar are burned.

Finding 18

The amount of ash contained in sugar depends, in part, on the climatic and soil conditions where the sugar cane or sugar beet is grown, so that the ash content of refined granulated sugar may vary from about 0.01 percent to about 0.04 percent.

Finding 19

The ash content of invert sugar sirup is increased in the process of inversion by reason of the addition thereto of certain mineral matters contained in the water in which sugar is dissolved, and when the inverting reagent is an acid, by reason of the presence of the mineral substance, usually common salt, resulting when such acid is neutralized.

Finding 20

Subject to the variations in the quantity of ash present due to the causes stated, the quantity of ash present in invert sugar sirup is indicative of the degree of refinement.

Finding 21

An invert sugar sirup which is insufficiently refined and which has an abnormally high ash content has a characteristic flavor, odor, and color which render it unsuitable for use as a saccharine ingredient in jellies.

Finding 22

An invert sugar sirup which has been sufficiently refined to be suitable for use as a saccharine ingredient in jelly contains not more than 0.3 percent ash and is colorless, odorless, and flavorless except for sweetness.

Finding 23

Corn sugar is the refined anhydrous or hydrated product obtained by complete hydrolysis of corn starch; dextrose is the refined anhydrous or hydrated product obtained by complete hydrolysis of any starch.

Finding 24

By reason of its low solubility, corn sugar or dextrose can be used only in combination with sugar or other saccharine substances as a saccharine ingredient in jelly and, for the same reason, the quantity which may be so used is limited to the amount which will remain in solution.

Finding 25

Corn sirup is the product obtained by partial hydrolysis of corn starch, and is a concentrated aqueous solution of dextrose and maltose, which are members of the class of substances chemically known as sugars, and the non-sugar or pro-sugar substance dextrin.

Finding 26

Dextrin imparts a characteristic taste and texture to corn sirup and to jelly in which corn sirup is used in substantial quantities.

Finding 27

Corn sirup costs less than sugar and dextrose, and jellies in which it is used in substantial quantities sell at lower prices than jellies made with sugar or sugar and dextrose.

Finding 28

The maximum quantity of corn sirup which may be used as part of the saccharine ingredient to make an acceptable jelly varies with the kind of fruit juice ingredient used, but in no case is the quantity such that the corn sirup solids is in excess of one-half, by weight, of the solids of the total saccharine ingredient.

Finding 29

When used in substantial quantity honey imparts a characteristic honey flavor to jelly.

Finding 30

The minimum quantity of honey which may be used as part of the saccharine ingredient to impart a characteristic honey flavor to jelly is such that the weight of honey solids is not less than two-fifths of the weight of the solids of such saccharine ingredient.

Finding 31

One of the factors on the basis of which a product is identified as a jelly is its consistency.

Finding 32

An important factor in obtaining the consistency generally expected of jelly is the concentration by heat of the mixture of fruit juice and saccharine ingredients, and such other optional ingredients as may be present; a reasonable minimum degree of concentration is that at which the soluble solids is not less than 65 percent by weight of the finished jelly.

Finding 33

The soluble solids in a jelly and in a fruit juice ingredient is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, page 464, under "By means of a refractometer—Official", a publication well known to and commonly used by food chemists; and such method is generally accepted by food chemists as a proper method whereby the soluble solids of jelly and fruit juice ingredients may be determined with a reasonable degree of accuracy.

Finding 34

Pectin and acid, substances naturally present in all fruits used for making jelly, are essential to the jelling of jelly.

Finding 35

Some fruit juice ingredients of jelly contain larger quantities of pectin and acid than others and frequently the quantity of pectin and acid varies in the same kind of fruit juice ingredient, such variances being due to several factors, including the degree of ripeness of the fruit from which the juice was obtained, the variety of such fruit, the locality where grown, the method of extracting and storing the juice ingredient, and other factors.

Finding 36

A manufacturer of jellies cannot, by normal good commercial practice, maintain a sufficiently high content of acid and pectin for jelly making by selecting the fruits on the basis of their variety or degree of ripeness or on any other basis which is practicable.

Finding 37

When the fruit juice ingredient of jelly contains substantially less pectin or acid, or both, than the average quantities of pectin and acid in the juices of jelly-making fruits generally, a proper consistency of the finished product cannot be obtained.

Finding 38

When the fruit juice ingredient of jelly is deficient in pectin or acid, or both, the desirable consistency of the finished jelly is obtained by adding a sufficient quantity of pectin or acid, or both, to compensate for such deficiency.

Finding 39

Acid deficiency of a fruit juice ingredient is supplied by adding a suitable quantity of a vinegar, or lemon juice, or lime juice, or citric acid, or lactic acid, or malic acid, or tartaric acid, or any combination of two or more of these.

Finding 40

By adding abnormally large quantities of pectin or acid, or both, a substantial part of the normal fruit juice content of jelly can be replaced by water and excessive saccharine ingredients; such a product, through its consistency and appearance, purports to be jelly and such use of pectin and acid is regarded as deceptive.

Finding 41

When the fruit juice content and the degree of concentration of jelly are fixed at proper limits, any inducement for adding pectin or acid, or both, in quantities greater than are required to supply the natural deficiency of those substances, is eliminated.

Finding 42

When jelly is manufactured from some fruits in large batches, the rate of set must be retarded to permit the escape of bubbles and the proper filling of containers; this is accomplished by adding not more than 3 ounces of sodium citrate or sodium potassium tartrate, or both

(commonly called "buffer salts"), to each one hundred pounds of the saccharine ingredient in such batch.

Finding 43

The name of a jelly in which a single fruit juice ingredient is used is "jelly" preceded or followed by the name of the fruit from which the fruit juice was extracted.

Finding 44

The name of a jelly in which a combination of two, three, four, or five fruit juice ingredients is used is "mixed fruit jelly", or "jelly" preceded or followed by the name of each of the respective fruits from which the fruit juices were extracted, in the order of predominance by weight of such juices in such combination.

Finding 45

Spices are sometimes added to jelly.

Finding 46

Mint flavoring and harmless artificial green coloring are sometimes added to jelly in which the fruit juice ingredient is extracted from apple, crabapple, pineapple, or any two or all of these.

Finding 47

When jelly is packed in large containers for sale to institutions, restaurants, hotels, etc., the chemical sodium benzoate is sometimes added as a preservative.

Conclusion

On the basis of the foregoing facts found and pursuant to and by virtue of the provisions of sections 401 and 701 (e) of the Federal Food, Drug, and Cosmetic Act [secs. 401, 701 (e), 52 Stat. 1046, 1055; 21 U.S.C., Sup. V, 341, 371 (e)], and of the Reorganization Act of 1939 [53 Stat. 561 ff.], and Reorganization Plan No. IV [5 F.R. 2421], the following regulation fixing and establishing definitions and standards of identity for jellies is hereby promulgated:

§ 29.500 *Fruit jelly—identity; label statement of optional ingredients.* (a) The jellies for which definitions and standards of identity are prescribed by this section are the jelled foods each of which is made from a mixture composed of not less than 45 parts by weight (as determined by the method prescribed in subsection (b)) of one or any combination of two, three, four, or five of the fruit juice ingredients specified in subsection (c) to each 55 parts by weight (see subsection (e) (1)) of one of the optional saccharine ingredients specified in subsection (d). Such mixture may also contain one or more of the following optional ingredients:

(1) Spice.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, or any combination of two or more of these, in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit juice ingredient.

(3) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit juice ingredient.

(4) Sodium citrate, sodium potassium tartrate, or any combination of these, in a quantity the proportion of which is not more than 3 ounces avoirdupois to each 100 pounds of the saccharine ingredient used.

(5) Sodium benzoate or benzoic acid, or any combination of these, in a quantity reasonably necessary as a preservative.

(6) Mint flavoring and harmless artificial green coloring, in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple, crabapple, pineapple, or two or all of such fruits.

Such mixture is concentrated by heat to such point that the soluble solids content of the finished jelly is not less than 65 percent, as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, page 464 under "By means of a refractometer—Official".

(b) Any requirement of this section with respect to the weight of any fruit juice ingredient, whether concentrated, unconcentrated, or diluted, means the weight determined by the following method: Determine the percent of soluble solids in such fruit juice ingredient by the method for soluble solids referred to in subsection (a); multiply the percent so found by the weight of such fruit juice ingredient; divide the result by 100; subtract from the quotient the weight of any added sugar or other added solids; and multiply the remainder by the factor for such fruit juice ingredient prescribed in subsection (c). The result is the weight of the fruit juice ingredient.

(c) Each of the fruit juice ingredients referred to in subsection (a) is the filtered or strained liquid extracted with or without the application of heat and with or without the addition of water, from one of the following mature, properly prepared fruits which are fresh, frozen and/or canned:

Factor referred to in subsection (b)	
Name of fruit:	
Apple	7.5
Apricot	7.0
Blackberry (other than dewberry)	10.0
Black Raspberry	9.0
Cherry	7.0
Crabapple	6.5
Cranberry	9.5
Damson, Damson Plum	7.0
Dewberry (other than boysenberry, loganberry, and youngberry)	10.0
Fig	5.5
Gooseberry	12.0
Grape	7.0
Grapefruit	11.0
Greengage, Greengage Plum	7.0
Guava	13.0
Loganberry	9.5
Orange	8.0
Peach	8.5
Pineapple	7.0

Name of fruit—Continued.	Factors referred to in subsection (b)
Plum (other than damson, green-gage, and prune).....	7.0
Pomegranate.....	5.5
Quince.....	7.5
Raspberry, Red Raspberry.....	9.5
Red Currant, Currant (other than black currant).....	9.5
Strawberry.....	12.5
Youngberry.....	10.0

In any combination of two, three, four, or five of such fruit juice ingredients the weight of each is not less than one-fifth of the weight of the combination. Each such fruit juice ingredient in any such combination is an optional ingredient.

(d) The optional saccharine ingredients referred to in subsection (a) are:

- (1) Sugar.
- (2) Invert sugar sirup.
- (3) Any combination composed of optional saccharine ingredients (1) and (2).
- (4) Any combination composed of corn sugar or dextrose and optional saccharine ingredient (1), (2), or (3).
- (5) Any combination composed of corn sirup and optional saccharine ingredient (1), (2), (3), or (4), in which the weight of the solids of each component is not less than one-tenth of the weight of the solids of such combination and the weight of corn sirup solids is not more than one-half of the weight of the solids of such combination.
- (6) Honey.
- (7) Any combination composed of honey and optional saccharine ingredient (1), (2), or (3), in which the weight of the solids of each component except honey is not less than one-tenth of the weight of the solids of such combination and the weight of honey solids is not less than two-fifths of the weight of the solids of such combination.

(e) For the purposes of this section:

- (1) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.
- (2) The term "sugar" means refined sugar (sucrose).
- (3) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color and flavor other than sweetness are removed.
- (4) The term "corn sugar" means refined anhydrous or hydrated dextrose made from corn starch.
- (5) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.

(f) The name of each jelly for which a definition and standard of identity is prescribed by this section is as follows:

(1) In case the jelly is made with a single fruit juice ingredient, the name is "Jelly" preceded or followed by the name or synonym whereby the fruit from which such fruit juice ingredient was extracted is designated in subsection (c).

(2) In case the jelly is made with a combination of two, three, four, or five fruit juice ingredients, the name is "Jelly" preceded or followed by the words "Mixed Fruit" or by the names or synonyms whereby the fruits from which the fruit juice ingredients were extracted are designated in subsection (c), in the order of predominance, if any, of the weights of such fruit juice ingredients in the combination.

(g) (1) When optional ingredient (1) is used, the label shall bear the word "Spiced" or the statement "Spice Added" or "With Added Spice"; but in lieu of the word "Spice" in such statements the common name of the spice may be used.

(2) When optional ingredient (5) is used, the label shall bear the words "Sodium Benzoate" or "Benzoic Acid" or "Sodium Benzoate and Benzoic Acid", as the case may be, followed by the words "Added as Preservative".

(3) When optional ingredient (6) is used, the label shall bear the statement "Flavoring and Artificial Coloring Added" or "With Added Flavoring and Artificial Coloring"; the word "Flavoring" in such statement may be preceded by the word "Mint".

(4) When optional saccharine ingredient (5) or (7) is used, the label shall bear the names of the components of the combination whereby such components are designated in subsection (d), in the order of predominance, if any, of the weight of such components in the combination. Such names shall be preceded by the words "Prepared with".

(5) When optional saccharine ingredient (6) is used, the label shall bear the statement "Prepared with Honey".

(6) When a combination of two, three, four, or five fruit juice ingredients is used, and the jelly is designated on its label by the word "Jelly" preceded or followed by the words "Mixed Fruit", the label shall bear the names or synonyms whereby such fruits are designated in subsection (c), in the order of predominance, if any, of the weights of such fruit juice ingredients in the combination.

(7) Wherever the name specified in subsection (f) appears on the label of the jelly so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such jelly may so intervene.

It is ordered, That the foregoing regulation become effective on the ninetieth day after this order is published in the FEDERAL REGISTER.

Dated, Washington, D. C., August 31, 1940.

PAUL V. McNUTT,
Federal Security Administrator.

[F. R. Doc. 40-3688; Filed, September 4, 1940; 10:55 a. m.]

[Docket No. FDC-10-C]

REGULATION FIXING AND ESTABLISHING DEFINITIONS AND STANDARDS OF IDENTITY FOR FRUIT BUTTERS

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE ON THE BASIS OF WHICH REGULATIONS MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR FRUIT BUTTER FOODS

Upon consideration of the evidence of record in the above-entitled hearing,¹ and of the Presiding Officer's report and objections thereto, findings of fact, upon the basis of which definitions and standards of identity are hereinafter fixed and established for fruit butters, are hereby made as follows:

Finding 1

A fruit butter is the smooth, semi-solid food obtained by cooking a mixture of fruit and saccharine ingredients consisting of not less than 5 parts, by weight, of a fruit ingredient to 2 parts, by weight, of a saccharine ingredient.

Finding 2

The fruit ingredients in fruit butters for which definitions and standards of identity are herein prescribed, are prepared by cooking, with or without added water, and screening so as to remove skins, seeds, pits, and cores, the following fresh, frozen, canned, and/or dried fruits: Apple, apricot, grape, peach, pear, plum (other than prune), prune, and quince.

Finding 3

The dried fruit or evaporated fruit used in making fruit butter is fruit from which most of the moisture has been evaporated by the application of heat.

Finding 4

Not only is moisture removed by the drying of fruit but there are driven off and lost some portions of the volatile flavoring substances which characterize fresh fruit; there are also other changes, including oxidation of certain constituents, which materially alter the character of the fruit. Some changes which began with drying continue progressively during storage. Such losses and changes are irreversible and carry through into fruit butter made from dried fruit.

Finding 5

In some cases the changes in the character of the fruit as a result of

¹ 4 P. R. 3585.

drying are organoleptically detectible in the finished fruit butter when it is compared with fruit butter made with fresh fruit.

Finding 6

Consumers generally believe the fruit ingredient in fruit butter is prepared from fresh fruit.

Finding 7

A fruit product screened for use in fruit butter may be concentrated or unconcentrated, or may contain added water.

Finding 8

In any fruit product screened for use in fruit butter, the weight of the original fruit substance (i. e., the fruit less its skins, seeds, pits, and cores) is to the weight of such product as the percentage of soluble fruit solids in such product is to the percentage of soluble fruit solids in such original fruit substance.

Finding 9

In using the ratio set forth in Finding 8 for computing the weight of original fruit substance, it is customary to assume that the percentage of soluble fruit solids in any given kind of fruit is the average percentage of soluble fruit solids in that kind of fruit. Computations based on such assumption are reasonably accurate and are the most practicable method of arriving at the weight of fruit substance used in making fruit butter.

Finding 10

The fruits from which the fruit ingredients of the fruit butters, for which definitions and standards of identity are herein prescribed, are obtained; the percentages by weight of the average soluble fruit solids in the fruit substance of such respective fruits; and their respective factors, which are the reciprocals of such percentages multiplied by 100 and rounded out to whole or half numbers, are as follows:

Name of fruit:	Average percentage of soluble fruit solids	Factor
Apple	13.7	7.5
Apricot	14.4	7.0
Grape	14.1	7.0
Peach	11.8	8.5
Pear	15.5	6.5
Plum (other than prune)	14.8	7.0
Prune	14.8	7.0
Quince	13.2	7.5

Finding 11

The following is a convenient and reasonably accurate method for determining the weight of original fruit substance used in making fruit butter, which is based on Findings 8, 9, and 10:

Determine the percent of soluble solids in the screened fruit; multiply the percent so found by the weight of the screened fruit; divide the result by 100; subtract from the quotient the weight of any added sugar or other added solids; and multiply the remainder by the factor for the fruit from which such screened fruit was obtained.

The result is the weight of the original fruit substance in such screened fruit.

Finding 12

In any combination of two, three, four, or five fruit ingredients, the weight of the fruit substance of each is not less than one-fifth of the total weight of such combination.

Finding 13

Any one of the following may be used as the saccharine ingredient in fruit butters: (1) Sugar; (2) invert sugar sirup; (3) brown sugar; (4) invert brown sugar sirup; (5) honey; (6) corn sirup; (7) any combination of two or more of (1), (2), (3), (4), (5), and (6), but if honey is a component the weight of its solids is not less than two-fifths of the weight of the solids of such combination; (8) any combination of corn sugar or dextrose and (1), (2), (3), (4), (5), (6), or (7), but if honey is a component the weight of its solids is not less than two-fifths of the weight of the solids of such combination.

Finding 14

The weight of a saccharine ingredient is the weight of its solids.

Finding 15

Sugar is the refined product in crystallized form obtained from sugarcane or sugar beet, chemically known as sucrose.

Finding 16

When sugar or brown sugar in solution is subjected to certain treatment with the enzyme invertase or with certain acids, it is wholly or partly converted into levulose and dextrose, a chemical reaction commonly described by chemists as inversion.

Finding 17

Sugar and brown sugar are partly inverted in the process of manufacture of a fruit butter.

Finding 18

Invert sugar sirup used as a saccharine ingredient in fruit butters is manufactured (1) by treating a solution of sugar with the enzyme invertase or with hydrochloric or sulphuric acid which is neutralized with sodium carbonate when the treatment is completed; or (2) by treating a solution of partly refined sugar with invertase or with hydrochloric or sulphuric acid which is neutralized with sodium carbonate when the treatment is completed, and by removing color and flavor, other than sweetness, from such solution. When manufactured by method (2) the solution is so refined that its ash content, on a dry basis, is not more than 0.3 percent by weight.

Finding 19

Invert brown sugar sirup is a wholly or partly inverted solution of brown sugar.

Finding 20

Corn sugar is the refined anhydrous or hydrated product obtained by complete hydrolysis of corn starch; dextrose is the refined anhydrous or hydrated product obtained by complete hydrolysis of any starch.

Finding 21

By reason of its low solubility, corn sugar or dextrose can be used only in combination with sugar or other saccharine substances as a saccharine ingredient in fruit butters and, for the same reason, the quantity which may be so used is limited.

Finding 22

Corn sirup is the product obtained by partial hydrolysis of corn starch and is a concentrated aqueous solution of dextrose and maltose, which are members of the class of substances chemically known as sugars, and the non-sugar or pro-sugar substance dextrin.

Finding 23

Dextrin imparts a characteristic taste and texture to corn sirup and to fruit butter in which corn sirup is used in substantial quantity.

Finding 24

Corn sirup costs less than sugar and dextrose and fruit butters in which it is used sell at lower prices than fruit butter made with sugar or sugar and dextrose.

Finding 25

When used in substantial quantity honey imparts a characteristic honey flavor to fruit butter.

Finding 26

The minimum quantity of honey which may be used as part of the saccharine ingredient to impart a honey flavor to fruit butter is such that the weight of honey solids is not less than two-fifths of the weight of such saccharine ingredient.

Finding 27

Sometimes fruit juice is used as an ingredient of fruit butter, and when so used it sometimes replaces part or all of the saccharine ingredient.

Finding 28

When fruit juice is used as an ingredient of fruit butter, its weight is not less than one-half of the weight of the fruit ingredient of such fruit butter.

Finding 29

The weight of fruit juice or diluted fruit juice or concentrated fruit juice from a fruit specified in Finding 10, when used as an ingredient of fruit butter, is determined by the method described in Finding 11; the weight of diluted or concentrated juice from any other fruit is regarded as the weight of the juice before it was diluted or concentrated.

Finding 30

In its preparation fruit butter may be seasoned with one or more of the following ingredients: (1) Spice; (2) flavoring (other than artificial flavoring); (3) salt; (4) a vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, or any combination of two or more of these.

Finding 31

One of the factors on the basis of which a product is identified as fruit butter is its consistency.

Finding 32

An important factor in obtaining the consistency generally expected of fruit butter is the concentration by heat of the mixture of fruit and saccharine ingredients and such other optional ingredients as may be present; a reasonable minimum degree of concentration is that at which the soluble solids is not less than 43 percent by weight of the finished fruit butter.

Finding 33

The soluble solids in fruit butter and in a fruit ingredient to be used in fruit butter is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, page 320, under "Soluble Solids in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Tentative", except that no correction is made for water-insoluble solids. The soluble solids in fruit juice or diluted fruit juice or concentrated fruit juice from a fruit specified in Finding 10, when used as an ingredient of fruit butter, is determined by the method prescribed in the same publication at page 464 under "By means of a refractometer—Official". Such publication is well known to and commonly used by food chemists, and such methods are generally accepted by food chemists as proper methods whereby soluble solids in such articles may be determined with a reasonable degree of accuracy.

Finding 34

The name of a fruit butter in which a single fruit ingredient is used is "Butter" preceded by the name of the fruit from which such fruit ingredient was prepared.

Finding 35

The name of a fruit butter in which a combination of two, three, four, or five fruit ingredients is used is "Butter" preceded by the words "Mixed Fruit" or by the names of the fruits from which such fruit ingredients were prepared, in the order of the predominance, if any, of the weight of such fruit ingredients in the combination.

Conclusion

On the basis of the foregoing facts found, and pursuant to and by virtue of the provisions of sections 401 and 701 (e)

of the Federal Food, Drug, and Cosmetic Act [secs. 401, 701 (e), 52 Stat. 1046, 1055; 21 U.S.C., Sup. V, 341, 371 (e)], and of the Reorganization Act of 1939 [53 Stat. 561 ff.], and Reorganization Plan No. IV [5 F.R. 2421], the following regulation fixing and establishing definitions and standards of identity for fruit butters is hereby promulgated:

§ 30.000 *Fruit butter—identity; label statement of optional ingredients.* (a) The fruit butters for which definitions and standards of identity are prescribed by this section are the smooth, semi-solid foods each of which is made from a mixture composed of not less than five parts by weight (as determined by the method prescribed in subsection (b) (1)) of one or any combination of two, three, four, or five of the optional fruit ingredients specified in subsection (c) to each two parts by weight (see subsection (e) (1)) of one of the optional saccharine ingredients specified in subsection (d), except that the use of such saccharine ingredient is not required when optional ingredient (5) is used. Such mixture may be seasoned with one or more of the following optional ingredients:

- (1) Spice.
- (2) Flavoring (other than artificial flavoring).
- (3) Salt.
- (4) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, or any combination of two or more of these.

Such mixture may also contain the optional ingredient:

- (5) Fruit juice or diluted fruit juice or concentrated fruit juice in a quantity not less than one-half the weight of the optional fruit ingredient.

Such mixture is concentrated by heat to such point that the soluble solids content of the finished fruit butter is not less than 43 percent as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, page 320, under "Soluble Solids in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Tentative", except that no correction is made for water-insoluble solids.

(b) (1) Any requirement of this section with respect to the weight of any optional fruit ingredient, whether concentrated, unconcentrated, or diluted, means the weight determined by the following method:

Determine the percent of soluble solids in the optional fruit ingredient by the method prescribed for determining soluble solids in subsection (a); multiply the percent so found by the weight of such ingredient; divide the result by 100; subtract from the quotient the weight of any added sugar or any other added solids; and multiply the remainder by the factor for such ingredient

prescribed in subsection (c). The result is the weight of the optional fruit ingredient.

(2) For the purposes of this section, the weight of fruit juice or diluted fruit juice or concentrated fruit juice (optional ingredient (5)) from a fruit specified in subsection (c) is the weight of such juice as determined by the method prescribed in subsection (b) (1), except that the percent of soluble solids is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, page 464, under "By means of a refractometer—Official"; the weight of diluted or concentrated juice from any other fruit is the original weight of the juice before it was diluted or concentrated.

(c) Each of the optional fruit ingredients referred to in subsection (a) is prepared by cooking one of the following fresh, frozen, canned, and/or dried (evaporated) mature fruits, with or without added water, and screening out skins, seeds, pits, and cores:

Name of fruit:	Factor referred to in subsection (b) (1)
Apple	7.5
Apricot	7.0
Grape	7.0
Peach	8.5
Pear	6.5
Plum (other than prune)	7.0
Prune	7.0
Quince	7.5

In any combination of two, three, four, or five fruit ingredients, the weight of each is not less than one-fifth of the weight of the combination.

(d) The optional saccharine ingredients referred to in subsection (a) are:

- (1) Sugar.
- (2) Invert sugar sirup.
- (3) Brown sugar.
- (4) Invert brown sugar sirup.
- (5) Honey.
- (6) Corn sirup.

(7) Any combination composed of two or more of optional saccharine ingredients (1), (2), (3), (4), (5), and (6); but if honey is a component the weight of its solids is not less than two-fifths of the weight of the solids of such combination.

(8) Any combination composed of corn sugar or dextrose and optional saccharine ingredient (1), (2), (3), (4), (5), (6), or (7); but if honey is a component the weight of its solids is not less than two-fifths of the weight of the solids of such combination.

If honey or corn sirup is a component of any combination used as optional saccharine ingredient (6) or (7), the weight of the solids of each component (other than honey) is not less than one-tenth of the weight of the solids of such combination.

(e) For the purposes of this section—

(1) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(2) The term "sugar" means refined sugar (sucrose).

(3) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color and flavor other than sweetness are removed.

(4) The term "invert brown sugar sirup" means a sirup made by inverting or partly inverting brown sugar.

(5) The term "corn sugar" means refined anhydrous or hydrated dextrose made from cornstarch.

(6) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.

(f) The name of each fruit butter for which a definition and standard of identity is prescribed by this section is as follows:

(1) In case the fruit butter is made from a single fruit ingredient the name is "Butter" preceded by the name whereby such fruit is designated in subsection (c).

(2) In case the fruit butter is made from a combination of two, three, four, or five fruit ingredients, the name is "Butter" preceded by the words "Mixed Fruit" or by the names whereby such fruits are designated in subsection (c) in the order of predominance, if any, of the weight of such fruit ingredients in the combination.

(g) (1) When optional ingredient (1) is used, the label shall bear the word "Spiced" or the statement "Spice Added" or "With Added Spice"; but in lieu of the word "Spice" in such statements the common name of the spice may be used.

(2) When optional ingredient (2) is used, the label shall bear the statement "Flavoring Added" or "With Added Flavoring"; the word "Flavoring" in such statements may be preceded by the common name of the kind of flavoring used.

(3) When optional ingredient (5) is used, the label shall bear the words "Prepared With _____ Juice", the blank to be filled in with the name of the fruit from which the juice is obtained; but if apple juice is used the word "Cider" may be used in lieu of "Apple Juice".

(4) When optional saccharine ingredient (5) or (6) is used, the label shall bear the statement "Prepared With Honey" or "Prepared With Corn Sirup", as the case may be.

(5) When corn sirup or honey or both are components of any combination used as an optional saccharine ingredient, the label shall bear the statement "Prepared With _____", the blank to be filled in with the names whereby the components of such combination are designated in subsection (d), in the order of predominance, if any, by weight of such components in the combination.

(6) When the optional fruit ingredient is prepared in whole or in part from dried fruit, the label shall bear the words "Prepared From" or "Prepared in Part From", as the case may be, followed by the word "Evaporated" or "Dried", followed by the name whereby such fruit is designated in subsection (c). When two or more such optional fruit ingredients are used, such names, each preceded by the word "Evaporated" or "Dried", shall appear in the order of predominance, if any, of the weight of such ingredients in the combination.

(7) When a combination of two, three, four, or five optional fruit ingredients is used, and the fruit butter is designated on its label by the name "Mixed Fruit Butter", the label shall bear the names whereby the fruits from which such ingredients are prepared are designated in subsection (c), in the order of predominance, if any, of the weights of such ingredients in the combination.

(8) The label statements required by paragraphs (1) and (2) of this subsection may be combined, as for example, "Cinnamon Oil and Cloves Added". The label statements required by two or more of paragraphs (3), (4), (5), (6), and (7) of this subsection may be combined, as for example, "Prepared with Cider, Apples, Dried Prunes, and Corn Sirup".

(9) Wherever the name specified in subsection (f) appears on the label of the fruit butter so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified showing the optional ingredients used shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such fruit butter may so intervene.

It is ordered, That the foregoing regulations become effective on the ninth day after this order is published in the FEDERAL REGISTER.

Dated, Washington, D. C., August 31, 1940.

PAUL V. McNUTT,
Federal Security Administrator.

[F. R. Doc. 40-3689; Filed, September 4, 1940;
10:55 a. m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—GENERAL RULES AND REGULATIONS

The Commission on August 28, 1940, effective immediately, amended § 2.91 to read as follows:

§ 2.91 *National defense preparation by free service.* Any common carrier or

the licensee of any radio station subject to the Communications Act may utilize its facilities to render free service to the government for military or Naval communications in preparation for national defense. The government agency concerned will keep the Commission generally informed of the services of this kind accepted. Nothing herein or in any other regulation of the Commission shall be construed to require any such carrier or station to participate in any such communication.

(Sec. 210 as amended by Public No. 659, 76th Congress, Approved June 25, 1940)
By the Commission.

[SEAL] JOHN B. REYNOLDS,
Acting Secretary.

[F. R. Doc. 40-3691; Filed, September 4, 1940;
11:17 a. m.]

PART 41—TELEGRAPH AND TELEPHONE FRANKS

The Commission on August 28, 1940, effective immediately, amended § 41.13 by adding another subsection (d), reading as follows:

"(d) Service rendered pursuant to the provisions § 2.91 of the Rules and Regulations."

(Sec. 210 as amended by Public No. 659, 76th Congress, Approved June 25, 1940)
By the Commission.

[SEAL] JOHN B. REYNOLDS,
Acting Secretary.

[F. R. Doc. 40-3692; Filed, September 4, 1940;
11:17 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Rural Electrification Administration.

[Administrative Order No. 512]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 28, 1940.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Arkansas 1021B1 Lincoln.....	\$45,000
Missouri 1046A2 Taney.....	35,000
Pennsylvania 1020B2 Blair.....	25,000
South Carolina 1034A1 Newberry.....	122,000
South Carolina 1035A1 Abbeville.....	159,000
Virginia 1035C1 Madison.....	57,000

[SEAL] ROBERT B. CRAIG,
Deputy Administrator for
Harry Slattery, Administrator.

[F. R. Doc. 40-3707; Filed, September 4, 1940;
11:39 a. m.]

FEDERAL SECURITY AGENCY.

Food and Drug Administration.

[Docket No. FDC-24]

IN THE MATTER OF PRESCRIBING LABEL STATEMENTS CONCERNING DIETARY PROPERTIES OF FOOD PURPORTING TO BE OR REPRESENTED FOR SPECIAL DIETARY USES

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held as provided by subsection (e) of section 701 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. sec. 371 (e)] upon the proposal to promulgate regulations under and by virtue of the provisions of subsection (j) of section 403 of said Act [21 U.S.C. 343 (j)], prescribing information to be borne on the labels of food which purports to be or is represented for special dietary uses. The proposed regulations are as follows:

§ 125.01 *Definitions and interpretations of terms.* (a) The definitions and interpretations of terms contained in section 201 of the Act shall be applicable also to such terms when used in these regulations.

(b) Any requirement of these regulations with respect to the quantity of vitamin A means the biologically measured activity of vitamin A and its precursors; but if any such precursor is sold as such or is added to a food the label shall designate such precursor by its common or usual name and not as vitamin A.

(c) A minimum daily requirement specified in these regulations for any vitamin, mineral, or other dietary property shall be considered to be the minimum for maintenance and not as sufficient to correct any condition resulting from a deficiency in such vitamin, mineral, or other property.

(d) The term "infant" as used in these regulations means a child not more than one year old.

§ 125.02 *General label statements.* (a) A food which purports to be or is represented for any special dietary use by man shall bear on its label a statement of the dietary properties upon which the value of such food for such use is based in whole or in part. Such statement shall show the presence or absence of any constituent, any alteration of the quantity or character of any constituent, and any other special dietary property of such food upon which such value is so based.

(b) A food which purports to be or is represented for use in whole or in part for correcting any condition resulting from a dietary deficiency in man shall bear on its label adequate directions for such use.

§ 125.03 *Label statements relating to vitamins.* (a) (1) If the purported or represented special dietary use of a food by man is based in whole or in part on its vitamin property in respect of—

Vitamin A or its precursors
Vitamin B₁ (thiamin),
Vitamin C (ascorbic acid),

Vitamin D, or
Riboflavin,

the label (except as hereinafter provided in this paragraph) shall bear a statement of the proportion of the minimum daily requirement for such vitamin supplied by such food when consumed in a specified quantity during a period of one day. If such purported or represented use is for persons of different ages or age groups for which different minimum daily requirements are specified in subsection (b), such statement shall include such proportion for each such age or group. In the cases of cows' milk and evaporated milk, the purported or represented special dietary use of which is based on the content of vitamin D, and in which such vitamin content is increased by the addition of a vitamin D concentrate or through any other method or process to not less than 135 U. S. P. units to each quart in the case of cows' milk and to not less than 7.5 U. S. P. units to each avoirdupois ounce in the case of evaporated milk, the label shall bear, in lieu of such statement, a statement of the number of U. S. P. units of vitamin D in a specified quantity of such milk or evaporated milk.

(2) If the purported or represented special dietary use of a food by man is based in whole or in part on its vitamin property in respect of any vitamin not listed in paragraph (1) and the need for such vitamin in human nutrition, or the minimum daily requirement therefor, has not been established, the label shall bear the statement "The need for _____ in human nutrition has not been established" or "The minimum daily requirement for _____ in human nutrition has not been established", as the case may be, the blank to be filled in with the name of such vitamin.

(b) For the purposes of these regulations the following shall be considered to be minimum daily requirements:

(1) For vitamin A, 1,500 U. S. P. units for an infant, 3,000 U. S. P. units for a child more than one but less than twelve years old, 4,000 U. S. P. units for a person twelve or more years old.

(2) For vitamin B₁ (thiamin), 75 U. S. P. units for an infant, 125 U. S. P. units for a child more than one but less than six years old, 200 U. S. P. units for a child six or more but less than twelve years old, 250 U. S. P. units for a person twelve or more years old.

(3) For vitamin C (ascorbic acid), 200 U. S. P. units (10 milligrams) for an infant, 400 U. S. P. units (20 milligrams) for a child more than one but less than twelve years old, 500 U. S. P. units (25 milligrams) for a person twelve or more years old.

(4) For vitamin D, 400 U. S. P. units for any person, irrespective of age.

(5) For riboflavin, 0.5 milligram for an infant, _____ milligram (to be fixed on the basis of the evidence of record at the hearing) for a child more than one but less than twelve years old, and

2.0 milligrams for a person twelve or more years old.

§ 125.04 *Label statements relating to minerals.* (a) (1) If the purported or represented special dietary use of a food by man is based in whole or in part on its mineral property in respect of—

Calcium,
Phosphorus,
Iron, or
Iodine,

the label shall bear a statement of the proportion of the minimum daily requirement for such element supplied by such food when consumed in a specified quantity during a period of one day. If such purported or represented use is for persons of different ages or age groups, or other groups having special dietary requirements, for which different minimum daily requirements are specified in subsection (b), such statement shall include such proportion for each such age or group.

(2) If the purported or represented special dietary use of a food by man is based in whole or in part on its mineral property in respect of any element not listed in paragraph (1) and the need for such element in human nutrition, or the minimum daily requirement therefor, has not been established, the label shall bear the statement "The need for _____ in human nutrition has not been established" or "The minimum daily requirement for _____ in human nutrition has not been established", as the case may be, the blank to be filled in with the name of such element.

(b) For the purposes of these regulations, the following shall be considered to be minimum daily requirements:

(1) For calcium (Ca), 750 milligrams for any person more than one year of age, except any pregnant or lactating woman in which case the minimum daily requirement shall be considered to be 1.0 gram.

(2) For phosphorus (P), 750 milligrams for any person more than one year of age, except any pregnant or lactating woman in which case the minimum daily requirement shall be considered to be 1.0 gram.

(3) For iron (Fe), 7.5 milligrams for a child more than one but less than six years old, 10 milligrams for a person six or more years old, except any pregnant or lactating woman in which case the minimum daily requirement shall be considered to be 15 milligrams.

(4) For iodine (I), 0.10 milligram for any person more than one year of age.

§ 125.05 *Label statements relating to infant food.* (a) If the purported or represented special dietary use of a food is in whole or in part for infants, the label shall bear the common or usual name of each ingredient of such food, including spice, flavoring, and coloring; if any such ingredient consists in whole or in part of plant or animal matter and

such name does not clearly reveal the specific plant or animal which is its source, such name shall be so qualified as to reveal clearly the specific plant or animal which is such source.

(b) If the purported or represented use of a food for infants is based in whole or in part on its simulation of human milk or its suitability as a complete or partial substitute for human milk, the label shall bear—

(1) a statement of the percent by weight of moisture, protein, fat, available carbohydrates, crude fiber, calcium (Ca), phosphorus (P), and iron (Fe) contained in such food;

(2) a statement of the number of available calories and of U. S. P. units of vitamin A, vitamin B₁ (thiamin), vitamin C (ascorbic acid), and vitamin D supplied by a specified quantity of such food; and

(3) if less than 30 U. S. P. units of vitamin C (ascorbic acid), less than 60 U. S. P. units of vitamin D, or less than 0.75 milligram of iron (Fe), is supplied by the quantity of such food which supplies 100 available calories, a statement showing that such vitamin or iron, as the case may be, should be supplied from other sources.

The provisions of clauses (1) and (2) of this subsection shall not apply to cows' milk and evaporated milk. The provisions of clause (3) of this subsection with respect to vitamin D shall not apply to cows' milk or evaporated milk in which the vitamin D content is increased by the addition of a vitamin D concentrate or through any other method or process to not less than 135 U. S. P. units to each quart in the case of cows' milk and not less than 7.5 U. S. P. units to each avoirdupois ounce in the case of evaporated milk.

§ 125.06 *Label statements relating to certain food used in control of body weight or in dietary management with respect to disease.* If the purported or represented special dietary use of a food by man is in whole or in part for control of body weight or for dietary management with respect to disease, through regulating the intake of protein, fat, carbohydrates, or calories, the label shall bear a statement of—

(1) the percent by weight of protein, fat, and available carbohydrates in such food; and

(2) the number of available calories supplied by a specified quantity of such food.

§ 125.07 *Label statements relating to nonnutritive constituents.* (a) If the purported or represented special dietary use of a food by man is based in whole or in part on any constituent which is not utilized in normal metabolism, the label shall bear a statement of the percent by weight of such constituent and, in juxtaposition with the name of such constituent, the word "nonnutritive." If such

constituent is fibrous plant matter, its percent shall be considered to be and shall be expressed as crude fiber.

(b) If such constituent is saccharin or a saccharin salt, the label shall bear the statement "Contains ----- saccharin, a nonnutritive, artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets", the blank to be filled in with the percent by weight of saccharin in such food. The provisions of this subsection shall not be construed as authorizing the use of saccharin or its salts in any food other than one for special dietary use by persons who must restrict their intake of carbohydrates, or as relieving any food from compliance with any requirement of sections 402 (b) or (d), 403 (g), or other provision of the Act.

§ 125.08 *Label statements relating to hypoallergenic food.* If the purported or represented special dietary use of a food by man is based in whole or in part on decrease or absence of any allergenic property, the label shall bear—

(1) the common or usual name and (unless such food consists of a single ingredient) the quantity or proportion of each ingredient, including spices, flavoring, and coloring;

(2) a qualification of the name of each ingredient to reveal clearly the specific plant or animal which is its source, if such ingredient consists in whole or in part of plant or animal matter and such name does not clearly reveal the specific plant or animal which is such source; and

(3) a statement indicating the nature and effect of any treatment or processing of such food or any ingredient thereof, if the changed allergenic property results from such treatment or processing.

The hearing will begin at 10 a. m., on October 7, 1940, in the Public Health Service Auditorium, Constitution Avenue at 19th Street Northwest, Washington, D. C. The entire week of October 7 is reserved for the taking of testimony of witnesses presented by the Food and Drug Administration. Should such witnesses conclude their testimony prior to the expiration of that week the Presiding Officer is directed to adjourn the hearing to Monday, October 14, at the same time and place. Thereafter the hearing will be continued in the order and manner directed by the Presiding Officer.

All interested persons are invited to attend the hearing, in person or by representative, and offer evidence relevant and material to the subject matter of the proposals.

The proposed regulations are subject to adoption, rejection, or amendment, in whole or in part, as the evidence of record at the hearing may require.

Mr. Michael F. Markel is hereby designated as Presiding Officer to conduct the hearing in the place and stead of the

Administrator, in accordance with the rules of practice published in the FEDERAL REGISTER of June 26, 1940 (5 F.R. 2379-2381).

Notice is also given that, by virtue of and pursuant to the provisions of subsection (a) of section 701 of said Act, [21 U.S.C. 371 (a)], the Administrator proposes to promulgate a general regulation in respect of foods which are deemed to be subject to the provisions of any regulations promulgated under and by virtue of said subsection (j) of section 403 of said Act. The proposed general regulation is as follows:

§ 2.10a *General.* (a) A food may be subject to requirements of regulations under section 403 (j) of the Act by reason (among other reasons) of its purporting to be or being represented for use—

(1) by infants, children, aged persons, or persons suffering or convalescing from disease; or

(2) in the diagnosis, cure mitigation, treatment, or prevention of disease; or

(3) in a diet for controlling body weight, or otherwise affecting the structure or any function of the body; or

(4) in preventing or correcting any dietary deficiency.

(b) No provision of any regulation under section 403 (j) of the Act shall be considered to relieve any food from compliance with any other provision of the Act or regulations thereunder, including the provisions of section 403 (a) and, when applicable, the provisions of chapter V.

All interested persons may submit oral or written statements on the subject of such general regulation. Oral statements will be received by the Presiding Officer (subject to such restrictions as to scope and length as to him seem reasonable and proper) at the opening of the hearing hereinbefore announced and prior to the examination of witnesses. Written statements may be submitted to the Presiding Officer at the opening of the hearing or may be delivered to him prior to the date of the hearing.

The proposed general regulation may be adopted, rejected, or amended, in whole or in part, by the Administrator without further notice.

Affidavits and written statements required or permitted to be submitted under the rules of practice or by this notice and all communications in respect of the subject matter of this notice should be delivered to the Presiding Officer at Room 2242, South Building, Independence Avenue between 12th and 14th Streets, Southwest, Washington, D. C.

AUGUST 31, 1940.

PAUL V. McNUTT,
Administrator.

[F. R. Doc. 40-3686; Filed, September 4, 1940; 10:27 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4275]

IN THE MATTER OF A. FLETCHER SISK, THEODORE E. FLETCHER, AND HAROLD E. STARK, INDIVIDUALS, TRADING AS ALBERT W. SISK & SON

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of subsection (c) of section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents A. Fletcher Sisk, Theodore E. Fletcher, and Harold E. Stark are individuals, trading as Albert W. Sisk & Son, with their principal office and place of business located in Preston, Maryland. Respondents are engaged in the business of field brokers, acting as agents of sellers in transactions of sale and purchase of canned vegetables between sellers thereof and jobbers, wholesalers, retail chain stores and other purchasers.

In some instances sales of such commodities are effected for sellers by respondents through brokers, commonly known as corresponding or local brokers, who are employed by respondents to assist them in making such sales. In other instances sales of such commodities are effected for sellers by respondents to purchasers directly.

PAR. 2. For services rendered to sellers in connection with the sale of such commodities in each of the manners set forth in Paragraph 1 hereof, respondents receive from sellers a brokerage fee or commission, usually 4 per cent of the purchase price paid by the purchaser for such commodities.

In the instances where sales of such commodities are effected for sellers by respondents through corresponding or local brokers, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by sellers to respondents for services in connection with such sales is granted and allowed by respondents to such corresponding or local brokers for brokerage services rendered to respondents in connection with such sales.

In the instances where sales of such commodities are effected for sellers by respondents to purchasers directly, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by the sellers to respondents for services in connection with such sales, or an allowance or discount in lieu thereof, is granted and allowed by respondents to such purchasers.

PAR. 3. In the course and conduct of their said business since June 19, 1936, respondents have effected sales of such

commodities for sellers in each of the manners set forth in Paragraph 1 hereof to purchasers located in states other than the state in which the respective sellers of such commodities are located, pursuant to which sales such commodities have been shipped and transported by the sellers thereof across state lines to the respective purchasers thereof.

PAR. 4. Since June 19, 1936, in connection with sales of such commodities in interstate commerce as aforesaid, which sales were effected for sellers by respondents to purchasers directly as set forth in Paragraph 2 hereof, respondents have granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to such purchasers.

PAR. 5. Respondents are also engaged in the business of purchasing canned vegetables for their own account for resale to jobbers, wholesalers, retail chain stores and other purchasers.

Since June 19, 1936, respondents have made many purchases of such commodities for their own account for resale as aforesaid from sellers located in states other than the State of Maryland pursuant to which purchases such commodities have been shipped and transported by sellers from the respective states in which they are located across state lines either to respondents or, pursuant to instructions and directions from respondents, to the respective purchasers to whom such commodities have been resold by respondents.

Since June 19, 1936, respondents have also made many purchases of such commodities for their own account as aforesaid from sellers located in the State of Maryland, which sellers, pursuant to instructions and directions from respondents, have caused the commodities so purchased by respondents to be shipped and transported from the State of Maryland across state lines to the respective purchasers to whom such commodities have been resold by respondents.

PAR. 6. Since June 19, 1936, in connection with the purchases of such commodities by respondents for their own account in interstate commerce as set forth in Paragraph 5 hereof, respondents have received and accepted from sellers brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts.

PAR. 7. Since June 19, 1936, respondents have resold such commodities purchased for their own account as set forth in Paragraph 5 hereof to purchasers located in states other than the State of Maryland, pursuant to which sales respondents have caused such commodities to be shipped and transported across state lines to such purchasers.

Since June 19, 1936, in connection with the resale of such commodities in interstate commerce as aforesaid, respondents have granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial

amounts to the purchasers of such commodities.

PAR. 8. The granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondents to purchasers in connection with their respective purchases of commodities from sellers as set forth in Paragraph 4 hereof; the receipt and acceptance of brokerage fees and commissions or allowances and discounts in lieu thereof from sellers by respondents upon the purchases of commodities by the respondents as set forth in Paragraph 6 hereof; and the granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondents to purchasers upon the resale of commodities by respondents as set forth in Paragraph 7 hereof are in violation of subsection (c) of Section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 28th day of August, A. D. 1940, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, A. Fletcher Sisk, Theodore E. Fletcher, and Harold E. Stark, individuals, trading as Albert W. Sisk & Son, respondents herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to au-

thorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 28th day of August, A. D. 1940.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3693; Filed, September 4, 1940;
11:25 a. m.]

[Docket No. 4276]

IN THE MATTER OF GIANT TIGER
CORPORATION, A CORPORATION

COMPLAINT

The Federal Trade Commission having reason to believe that the respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Giant Tiger Corporation is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal office and place of business located at 41st and Chestnut Streets, Philadelphia, Pennsylvania. Respondent is engaged in the business of operating a chain of self-service retail food stores, commonly known as "Super Markets."

PAR. 2. In the course and conduct of its said business respondent purchases a substantial portion of its requirements from sellers located in states other than the state in which the respondent is located, pursuant to which purchases commodities are caused to be shipped and transported by the respective sellers thereof across state lines to the respondent.

PAR. 3. Since June 19, 1936, in connection with the purchase of its requirements in interstate commerce, as aforesaid, respondent has received and accepted allowances and discounts in lieu of brokerage in substantial amounts.

Usually, the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage is accomplished by respondent by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

PAR. 4. The receipt and acceptance of allowances and discounts in lieu of brokerage by respondent as set forth in Paragraph 3 hereof is in violation of subsection (c) of section 2 of the Clayton Act as amended.

Wherefore, the premises considered, the Federal Trade Commission, on this 28th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Giant Tiger Corporation, a corporation, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission, in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission, requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding, the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground

of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 28th day of August, A. D. 1940.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3694; Filed, September 4, 1940;
11:25 a. m.]

[Docket No. 4277]

IN THE MATTER OF UCO FOOD CORPORATION,
A CORPORATION

COMPLAINT

The Federal Trade Commission having reason to believe that the respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Uco Food Corporation is a corporation organized

and existing under the laws of the State of New Jersey with its principal office and place of business located at 506-510 Frelinghuysen Avenue, Newark, New Jersey. Respondent is engaged in the purchase, sale and distribution of food products at wholesale.

PAR. 2. In the course and conduct of its said business respondent purchases a substantial portion of its requirements from sellers located in states other than the state in which the respondent is located, pursuant to which purchases commodities are caused to be shipped and transported by the respective sellers thereof across state lines to the respondent.

PAR. 3. Since June 19, 1936, in connection with the purchase of its requirements in interstate commerce, as aforesaid, respondent has received and accepted allowances and discounts in lieu of brokerage in substantial amounts.

Usually, the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage is accomplished by respondent by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

PAR. 4. The receipt and acceptance of allowances and discounts in lieu of brokerage by respondent as set forth in Paragraph 3 hereof is in violation of subsection (c) of Section 2 of the Clayton Act as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 28th day of August, A. D. 1940, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, Uco Food Corporation, a corporation, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission, in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission, requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding, the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 28th day of August, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3695; Filed, September 4, 1940;
11:26 a. m.]

[Docket No. 4279]

IN THE MATTER OF R. C. WILLIAMS & CO.,
INC., A CORPORATION

COMPLAINT

The Federal Trade Commission having reason to believe that the respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the

Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent R. C. Williams & Co., Inc., is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 265 Tenth Avenue, New York, N. Y. Respondent is engaged in the business of importing and exporting food products.

PAR. 2. In the course and conduct of its said business respondent purchases a substantial portion of its requirements from sellers located in states other than the state in which the respondent is located, pursuant to which purchases commodities are caused to be shipped and transported by the respective sellers thereof across state lines to the respondent.

PAR. 3. Since June 19, 1936, in connection with the purchase of its requirements in interstate commerce, as aforesaid, respondent has received and accepted allowances and discounts in lieu of brokerage in substantial amounts.

Usually, the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage is accomplished by respondent by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

PAR. 4. The receipt and acceptance of allowances and discounts in lieu of brokerage by respondent as set forth in Paragraph 3 hereof is in violation of subsection (c) of Section 2 of the Clayton Act as amended.

Wherefore, the premises considered, the Federal Trade Commission, on this 28th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, R. C. Williams & Co., Inc., a corporation, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission, in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission, requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your ap-

pearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding, the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 28th day of August, A. D. 1940.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3696; Filed, September 4, 1940;
11:26 a. m.]

[Docket No. 4280]

IN THE MATTER OF A. KRASNE, A
CORPORATION
COMPLAINT

The Federal Trade Commission having reason to believe that the respondent

named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent A. Krasne, is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business located at 845 East 136th Street, New York, N. Y. Respondent is engaged in the business of purchasing, selling and distributing food products at wholesale.

PAR. 2. In the course and conduct of its said business respondent purchases a substantial portion of its requirements from sellers located in states other than the state in which the respondent is located, pursuant to which purchases commodities are caused to be shipped and transported by the respective sellers thereof across state lines to the respondent.

PAR. 3. Since June 19, 1936, in connection with the purchase of its requirements in interstate commerce, as aforesaid, respondent has received and accepted allowances and discounts in lieu of brokerage in substantial amounts.

Usually, the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage is accomplished by respondent by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

PAR. 4. The receipt and acceptance of allowances and discounts in lieu of brokerage by respondent as set forth in Paragraph 3 hereof is in violation of subsection (c) of section 2 of the Clayton Act as amended.

Wherefore, the premises considered, the Federal Trade Commission, on this 28th day of August A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, A. Krasne, a corporation, respondent herein, that the 4th day of October A. D. 1940 at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission, requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding, the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint, such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 28th day of August, A. D. 1940.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3697; Filed, September 4, 1940;
11:26 a. m.]

[Docket No. 4281]

IN THE MATTER OF GENERAL GROCER COMPANY, A CORPORATION

COMPLAINT

The Federal Trade Commission having reason to believe that the respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent General Grocer Company is a corporation organized and existing under the laws of the State of Delaware with its principal office and place of business located at 301 South 8th Street, St. Louis, Missouri. Respondent is engaged in the purchase, sale and distribution of food products at wholesale.

PAR. 2. In the course and conduct of its said business respondent purchases a substantial portion of its requirements from sellers located in states other than the state in which the respondent is located, pursuant to which purchases commodities are caused to be shipped and transported by the respective sellers thereof across state lines to the respondent.

PAR. 3. Since June 19, 1936, in connection with the purchase of its requirements in interstate commerce, as aforesaid, respondent has received and accepted allowances and discounts in lieu of brokerage in substantial amounts.

Usually, the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage is accomplished by respondent by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

PAR. 4. The receipt and acceptance of allowances and discounts in lieu of brokerage by respondent as set forth in Paragraph 3 hereof is in violation of subsection (c) of Section 2 of the Clayton Act as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 28th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, General Grocer Company, a corporation, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission, in the City of Washington, D. C.,

as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission, requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding, the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and

its official seal to be hereto affixed, at Washington, D. C., this 28th day of August, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3698; Filed, September 4, 1940; 11:27 a. m.]

[Docket No. 4282]

IN THE MATTER OF WALTER W. THRASHER, WILLOUGHBY J. ROTHROCK, LINTON A. THRASHER AND WAINWRIGHT CHURCHILL, INDIVIDUALS TRADING AS THOMAS ROBERTS & COMPANY

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents Walter W. Thrasher, Willoughby J. Rothrock, Linton A. Thrasher and Wainwright Churchill are individuals, trading as Thomas Roberts & Company, with their principal office and place of business located at 135 South Second Street, Philadelphia, Pennsylvania. Respondents are engaged in the business of purchasing canned fruits and vegetables for their own account and of reselling the same to jobbers, wholesalers, retail chain stores and other purchasers.

Since June 19, 1936, respondents have made many purchases of such commodities for their own account for resale as aforesaid from sellers located in states other than the State of Pennsylvania, pursuant to which purchases such commodities have been shipped and transported by sellers from the respective states in which they are located across state lines either to respondents or, pursuant to instructions and directions from respondents, to the respective purchasers to whom such commodities have been resold by respondents.

Since June 19, 1936, respondents have also made many purchases of such commodities for their own account as aforesaid from sellers located in the State of Pennsylvania, which sellers, pursuant to instructions and directions from respondents, have caused the commodities so purchased by respondents to be shipped and transported from the State of Pennsylvania across state lines to the respective purchasers to whom such commodities have been resold by respondents.

PAR. 2. Since June 19, 1936, in connection with the purchases of such commodities by respondents for their own account in interstate commerce as set forth in

Paragraph 1 hereof, respondents have received and accepted from sellers brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts.

Usually, the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage is accomplished by respondents by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

PAR. 3. Since June 19, 1936, respondents have resold such commodities purchased for their own account as set forth in Paragraph 1 hereof to purchasers located in states other than the State of Pennsylvania, pursuant to which sales respondents have caused such commodities to be shipped and transported across state lines to such purchasers.

Since June 19, 1936, in connection with the resale of such commodities in interstate commerce as aforesaid, respondents have granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to the purchasers of such commodities.

PAR. 4. The receipt and acceptance of brokerage fees and commissions or allowances and discounts in lieu thereof from sellers by respondents upon the purchases of commodities by the respondents as set forth in Paragraph 2 hereof, and the granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondents to purchasers upon the resale of commodities by respondents as set forth in Paragraph 3 hereof, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 28th day of August, A. D. 1940, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, Walter W. Thrasher, Willoughby J. Rothrock, Linton A. Thrasher and Wainwright Churchill, individuals trading as Thomas Roberts & Company, respondents herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 28th day of August, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3699; Filed, September 4, 1940;
11:27 a. m.]

[Docket No. 4283]

IN THE MATTER OF CHARLES F. UNRUH AND
ROBERT A. HARRIS, JR., INDIVIDUALS,
TRADING AS C. F. UNRUH BROKERAGE
COMPANY

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents Charles F. Unruh and Robert A. Harris, Jr., are individuals trading as C. F. Unruh Brokerage Company, with their principal office and place of business located in Kinsale, Virginia. Respondents are engaged in the business of field brokers, acting as agents of sellers in transactions of sale and purchase of canned fruits and vegetables between sellers thereof and jobbers, wholesalers, retail chain stores and other purchasers.

In some instances sales of such commodities are effected for sellers by respondents through brokers, commonly known as corresponding or local brokers, who are employed by respondents to assist them in making such sales. In other instances sales of such commodities are effected for sellers by respondents to purchasers directly.

PAR. 2. For services rendered to sellers in connection with the sale of such commodities in each of the manners set forth in Paragraph 1 hereof, respondents receive from sellers a brokerage fee or commission, usually 4 per cent of the purchase price paid by the purchaser for such commodities.

In the instances where sales of such commodities are effected for sellers by respondents through corresponding or local brokers, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by sellers to respondents for services in connection with such sales is granted and allowed by respondents to such corresponding or local brokers for brokerage services rendered to respondents in connection with such sales.

In the instances where sales of such commodities are effected for sellers by respondents to purchasers directly, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by the sellers to respondents for services in connection with such sales, or an allowance or discount in lieu thereof, is granted and allowed by respondents to such purchasers.

PAR. 3. In the course and conduct of their said business since June 19, 1936, respondents have effected sales of such

commodities for sellers in each of the manners set forth in Paragraph 1 hereof to purchasers located in states other than the state in which the respective sellers of such commodities are located, pursuant to which sales such commodities have been shipped and transported by the sellers thereof across state lines to the respective purchasers thereof.

PAR. 4. Since June 19, 1936, in connection with sales of such commodities in interstate commerce as aforesaid, which sales were effected for sellers by respondents to purchasers directly as set forth in Paragraph 2 hereof, respondents have granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to such purchasers.

PAR. 5. Respondents are also engaged in the business of purchasing canned fruits and vegetables for their own account for resale to jobbers, wholesalers, retail chain stores and other purchasers.

Since June 19, 1936, respondents have made many purchases of such commodities for their own account for resale as aforesaid from sellers located in states other than the State of Virginia pursuant to which purchases such commodities have been shipped and transported by sellers from the respective states in which they are located across state lines either to respondents or, pursuant to instructions and directions from respondents, to the respective purchasers to whom such commodities have been resold by respondents.

Since June 19, 1936, respondents have also made many purchases of such commodities for their own account as aforesaid from sellers located in the State of Virginia, which sellers, pursuant to instructions and directions from respondents, have caused the commodities so purchased by respondents to be shipped and transported from the State of Virginia across state lines to the respective purchasers to whom such commodities have been resold by respondents.

PAR. 6. Since June 19, 1936, in connection with the purchases of such commodities by respondents for their own account in interstate commerce as set forth in Paragraph 5 hereof, respondents have received and accepted from sellers brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts.

PAR. 7. Since June 19, 1936, respondents have resold such commodities purchased for their own account as set forth in Paragraph 5 hereof to purchasers located in states other than the State of Virginia, pursuant to which sales respondents have caused such commodities to be shipped and transported across state lines to such purchasers.

Since June 19, 1936, in connection with the resale of such commodities in interstate commerce as aforesaid, respondents have granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial

amounts to the purchasers of such commodities.

PAR. 8. The granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondents to purchasers in connection with their respective purchases of commodities from sellers as set forth in Paragraph 4 hereof; the receipt and acceptance of brokerage fees and commissions or allowances and discounts in lieu thereof from sellers by respondents upon the purchases of commodities by the respondents as set forth in Paragraph 6 hereof; and the granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondents to purchasers upon the resale of commodities by respondents as set forth in Paragraph 7 hereof are in violation of subsection (c) of Section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 29th day of August, A. D. 1940, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, Charles F. Unruh and Robert A. Harris, Jr., individuals, trading as C. F. Unruh Brokerage Company, respondents herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize

the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 29th day of August, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3700; Filed, September 4, 1940;
11:27 a. m.]

[Docket No. 4284]

IN THE MATTER OF CECIL G. REABURN, AN
INDIVIDUAL, TRADING AS C. G. REABURN
AND COMPANY

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Cecil G. Reaburn is an individual trading as C. G. Reaburn and Company, with his principal office and place of business located in Roanoke, Virginia. Respondent is engaged in the business of a field broker, acting as agent of sellers in transactions of sale and purchase of canned vegetables between sellers thereof and jobbers, wholesalers, retail chain stores and other purchasers.

In some instances sales of such commodities are effected for sellers by respondent through brokers, commonly known as corresponding or local brokers, who are employed by respondent to assist him in making such sales. In other instances sales of such commodities are effected for sellers by respondent to purchasers directly.

PAR. 2. For services rendered to sellers in connection with the sale of such commodities in each of the manners set forth in Paragraph 1 hereof, respondent receives from sellers a brokerage fee or commission, usually 4 per cent of the purchase price paid by the purchaser for such commodities.

In the instances where sales of such commodities are effected for sellers by respondent through corresponding or local brokers, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by sellers to respondent for services in connection with such sales is granted and allowed by respondent to such corresponding or local brokers for brokerage services rendered to respondent in connection with such sales.

In the instances where sales of such commodities are effected for sellers by respondent to purchasers directly, a certain percentage, usually 50 percent, of the brokerage fee or commission paid by the sellers to respondent for services in connection with such sales, or an allowance or discount in lieu thereof, is granted and allowed by respondent to such purchasers.

PAR. 3. In the course and conduct of his said business since June 19, 1936, respondent has effected sales of such commodities for sellers in each of the manners set forth in Paragraph 1 hereof to purchasers located in states other than the state in which the respective sellers of such commodities are located, pursuant to which sales such commodities have been shipped and transported by the sellers thereof across state lines to the respective purchasers thereof.

PAR. 4. Since June 19, 1936, in connection with sales of such commodities in interstate commerce as aforesaid, which sales were effected for sellers by respondent to purchasers directly as set forth in Paragraph 2 hereof, respondent has granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to such purchasers.

PAR. 5. Respondent is also engaged in the business of purchasing canned vegetables for his own account for resale to jobbers, wholesalers, retail chain stores and other purchasers.

Since June 19, 1936, respondent has made many purchases of such commodities for his own account for resale as aforesaid from sellers located in states other than the State of Virginia pursuant to which purchases such commodities have been shipped and transported by sellers from the respective states in which they are located across state lines either

to respondent or, pursuant to instructions and directions from respondent, to the respective purchasers to whom such commodities have been resold by respondent.

Since June 19, 1936, respondent has also made many purchases of such commodities for his own account as aforesaid from sellers located in the State of Virginia, which sellers, pursuant to instructions and directions from respondent, have caused the commodities so purchased by respondent to be shipped and transported from the State of Virginia across state lines to the respective purchasers to whom such commodities have been resold by respondent.

PAR. 6. Since June 19, 1936, in connection with the purchases of such commodities by respondent for his own account in interstate commerce as set forth in Paragraph 5 hereof, respondent has received and accepted from sellers brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts.

PAR. 7. Since June 19, 1936, respondent has resold such commodities purchased for his own account as set forth in Paragraph 5 hereof to purchasers located in states other than the State of Virginia, pursuant to which sales respondent has caused such commodities to be shipped and transported across state lines to such purchasers.

Since June 19, 1936, in connection with the resale of such commodities in interstate commerce as aforesaid, respondent has granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to the purchasers of such commodities.

PAR. 8. The granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondent to purchasers in connection with their respective purchases of commodities from sellers as set forth in Paragraph 4 hereof; the receipt and acceptance of brokerage fees and commissions or allowances and discounts in lieu thereof from sellers by respondent upon the purchases of commodities by the respondent as set forth in Paragraph 6 hereof; and the granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondent to purchasers upon the resale of commodities by respondent as set forth in Paragraph 7 hereof are in violation of subsection (c) of Section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 29th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Cecil G. Reaburn, an individual, trading as C. G. Reaburn and Company, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is

hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at

Washington, D. C., this 29th day of August, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3701; Filed, September 4, 1940;
11:27 a. m.]

[Docket No. 4294]

IN THE MATTER OF W. E. ROBINSON &
COMPANY, INC., A CORPORATION

COMPLAINT

The Federal Trade Commission having reason to believe that the respondent named in the caption hereof, and herein-after more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent W. E. Robinson & Company, Inc., is a corporation organized and existing under the laws of the State of Maryland, with its principal office and place of business located in Bel Air, Maryland. Respondent is engaged in the business of field broker, acting as agent of sellers in transactions of sale and purchase of canned fruits and vegetables between sellers thereof and jobbers, wholesalers, retail chain stores and other purchasers.

In some instances sales of such commodities are effected for sellers by respondent, through brokers, commonly known as corresponding or local brokers, who are employed by respondent to assist them in making such sales. In other instances sales of such commodities are effected for sellers by respondent to purchasers directly.

PAR. 2. For services rendered to sellers in connection with the sale of such commodities in each of the manners set forth in Paragraph 1 hereof, respondent receives from sellers a brokerage fee or commission, usually 4 per cent of the purchase price paid by the purchaser for such commodities.

In the instances where sales of such commodities are effected for sellers by respondent through corresponding or local brokers, a certain percentage usually 50 per cent, of the brokerage fee or commission paid by sellers to respondent for services in connection with such sales is granted and allowed by respondent to such corresponding or local brokers for brokerage services rendered to respondent in connection with such sales.

In the instances where sales of such commodities are effected for sellers by respondent to purchasers directly, a certain percentage, usually 50 percent, of the brokerage fee or commission paid by the sellers to respondent for services in connection with such sales, or an allow-

ance or discount in lieu thereof, is granted and allowed by respondent to such purchasers.

PAR. 3. In the course and conduct of its said business since June 19, 1936, respondent has effected sales of such commodities for sellers in each of the manners set forth in Paragraph 1 hereof to purchasers located in states other than the state in which the respective sellers of such commodities are located, pursuant to which sales such commodities have been shipped and transported by the sellers thereof across state lines to the respective purchasers thereof.

PAR. 4. Since June 19, 1936, in connection with sales of such commodities in interstate commerce as aforesaid, which sales were effected for sellers by respondent to purchasers directly as set forth in Paragraph 2 hereof, respondent has granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to such purchasers.

PAR. 5. Respondent is also engaged in the business of purchasing canned fruits and vegetables for its own account for resale to jobbers, wholesalers, retail chain stores and other purchasers.

Since June 19, 1936, respondent has made many purchases of such commodities for its own account for resale as aforesaid from sellers located in states other than the State of Maryland pursuant to which purchases such commodities have been shipped and transported by sellers from the respective states in which they are located across state lines either to respondent or, pursuant to instructions and directions from respondent, to the respective purchasers to whom such commodities have been resold by respondent.

Since June 19, 1936, respondent has also made many purchases of such commodities for its own account as aforesaid from sellers located in the State of Maryland, which sellers, pursuant to instructions and directions from respondent, have caused the commodities so purchased by respondent to be shipped and transported from the State of Maryland across state lines to the respective purchasers to whom such commodities have been resold by respondent.

PAR. 6. Since June 19, 1936, in connection with the purchases of such commodities by respondent for its own account in interstate commerce as set forth in Paragraph 5 hereof, respondent has received and accepted from sellers brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts.

PAR. 7. Since June 19, 1936, respondent has resold such commodities purchased, for its own account as set forth in Paragraph 5 hereof to purchasers located in States other than the State of Maryland, pursuant to which sales respondent has caused such commodities to be shipped and transported across state lines to such purchasers.

Since June 19, 1936, in connection with the resale of such commodities in interstate commerce as aforesaid, respondent has granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to the purchasers of such commodities.

PAR. 8. The granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondent to purchasers in connection with their respective purchases of commodities from sellers as set forth in Paragraph 4 hereof; the receipt and acceptance of brokerage fees and commissions or allowances and discounts in lieu thereof from sellers by respondent upon the purchases of commodities by the respondent as set forth in Paragraph 6 hereof; and granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondent to purchasers upon the resale of commodities by respondent as set forth in Paragraph 7 hereof are in violation of subsection (c) of Section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 30th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, W. E. Robinson & Company, Inc., a corporation, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent

ent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 30th day of August, A. D. 1940.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3702; Filed, September 4, 1940;
11:28 a. m.]

[Docket No. 4298]

IN THE MATTER OF AMERICAN BROKERAGE
COMPANY, INC., A CORPORATION
COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent American Brokerage Company, Inc., is a corporation organized and existing under the laws of the State of Virginia with its

principal office and place of business located at 119 Norfolk Avenue, Roanoke, Virginia. Respondent is engaged in the business of a field broker, acting as agent of sellers in transactions of sale and purchase of canned vegetables between sellers thereof and jobbers, wholesalers, retail chain stores and other purchasers.

In some instances sales of such commodities are effected for sellers by respondent through brokers, commonly known as corresponding or local brokers, who are employed by respondent to assist it in making such sales. In other instances sales of such commodities are effected for sellers by respondent to purchasers directly.

PAR. 2. For services rendered to sellers in connection with the sale of such commodities in each of the manners set forth in Paragraph 1 hereof, respondent receives from sellers a brokerage fee or commission, usually 4 per cent of the purchase price paid by the purchaser for such commodities.

In the instances where sales of such commodities are effected for sellers by respondent through corresponding or local brokers, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by sellers to respondent for services in connection with such sales is granted and allowed by respondent to such corresponding or local brokers for brokerage services rendered to respondent in connection with such sales.

In the instances where sales of such commodities are effected for sellers by respondent to purchasers directly, a certain percentage, usually 50 per cent, of the brokerage fee or commission paid by the sellers to respondent for services in connection with such sales, or an allowance or discount in lieu thereof, is granted and allowed by respondent to such purchasers.

PAR. 3. In the course and conduct of its said business since June 19, 1936, respondent has effected sales of such commodities for sellers in each of the manners set forth in Paragraph 1 hereof to purchasers located in states other than the state in which the respective sellers of such commodities are located, pursuant to which sales such commodities have been shipped and transported by the sellers thereof across state lines to the respective purchasers thereof.

PAR. 4. Since June 19, 1936, in connection with sales of such commodities in interstate commerce as aforesaid, which sales were effected for sellers by respondent to purchasers directly as set forth in Paragraph 2 hereof, respondent has granted and allowed brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts to such purchasers.

PAR. 5. Respondent is also engaged in the business of purchasing canned vegetables for its own account for resale to jobbers, wholesalers, retail chain stores and other purchasers.

Since June 19, 1936, respondent has made many purchases of such commodities

for its own account for resale of aforesaid from sellers located in states other than the State of Virginia pursuant to which purchases such commodities have been shipped and transported by sellers from the respective states in which they are located across state lines either to respondent or, pursuant to instructions and directions from respondent, to the respective purchasers to whom such commodities have been resold by respondent.

Since June 19, 1936, respondent has also made many purchases of such commodities for its own account as aforesaid from sellers located in the State of Virginia, which sellers, pursuant to instructions and directions from respondent, have caused the commodities so purchased by respondent to be shipped and transported from the State of Virginia across state lines to the respective purchasers to whom such commodities have been resold by respondent.

PAR. 6. Since June 19, 1936, in connection with the purchases of such commodities by respondent for its own account in interstate commerce as set forth in Paragraph 5 hereof, respondent has received and accepted from sellers brokerage fees and commissions or allowances and discounts in lieu thereof in substantial amounts.

PAR. 7. Since June 19, 1936, respondent has resold such commodities purchased for its own account as set forth in Paragraph 5 hereof to purchasers located in states other than the State of Virginia, pursuant to which sales respondent has caused such commodities to be shipped and transported across state lines to such purchasers.

Since June 19, 1936, in connection with the resale of such commodities in interstate commerce as aforesaid, respondent has granted and allowed brokerage fees and commission or allowances and discounts in lieu thereof in substantial amounts to the purchasers of such commodities.

PAR. 8. The granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondent to purchasers in connection with their respective purchases of commodities from sellers as set forth in Paragraph 4 hereof; the receipt and acceptance of brokerage fees and commissions or allowances and discounts in lieu thereof from sellers by respondent upon the purchases of commodities by the respondent as set forth in Paragraph 6 hereof; and the granting and allowing of brokerage fees and commissions or allowances and discounts in lieu thereof by respondent to purchasers upon the resale of commodities by respondent as set forth in Paragraph 7 hereof are in violation of subsection (c) of Section 2 of the Clayton Act, as amended.

Wherefore, the premises considered, the Federal Trade Commission on this 30th day of August, A. D. 1940, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, American Brokerage Company, Inc., a corporation, respondent herein, that the 4th day of October, A. D. 1940, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when, and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon appli-

cation in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 30th day of August, A. D., 1940.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3703; Filed, September 4, 1940;
11:28 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 7-26]

IN THE MATTER OF CHICAGO RIVET AND MACHINE COMPANY COMMON STOCK, \$4 PAR VALUE

ORDER DIRECTING HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of September, A. D. 1940.

Chicago Rivet and Machine Company having made application to the Commission under section 12 (f) of the Securities Exchange Act of 1934, and pursuant to Rule X-12F-3 promulgated thereunder, for the termination of unlisted trading privileges in its Common Stock, \$4 Par Value, on the New York Curb Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, September 25, 1940, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda, and any and all other records deemed relevant or material to the matters in issue at such hearing, and

to perform all other duties in connection therewith as authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3704; Filed, September 4, 1940;
11:33 a. m.]

[File No. 70-149]

IN THE MATTER OF NORTH WEST UTILITIES COMPANY

NOTICE REGARDING FILING SUBJECT TO RULE U-8

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of September, A. D. 1940.

Notice is hereby given that a declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party; and

Notice is further given that any interested person may, not later than September 20, 1940 at 4:30 P. M. E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration, as filed or as amended, may become effective as provided in Rule U-8 of the rules and regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

The above named company, a registered holding company and a subsidiary of The Middle West Corporation, also a registered holding company, desires to reduce its capital in the amount of \$13,434,294 by reducing the amount of the capital of the company represented by its shares of common stock, as shown by its books, from \$13,694,825 to \$260,531. The amount of the proposed reduction \$13,434,294 is proposed to be transferred on the books of the company from common capital account to surplus account and to be used to absorb \$13,434,294 of the deficit heretofore recorded on the books of the company. The amount of common capital of the company, as reduced, will be equal to the par value of the outstanding shares of the common stock of the company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3705; Filed, September 4, 1940;
11:33 a. m.]

